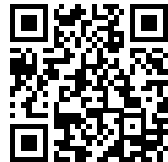
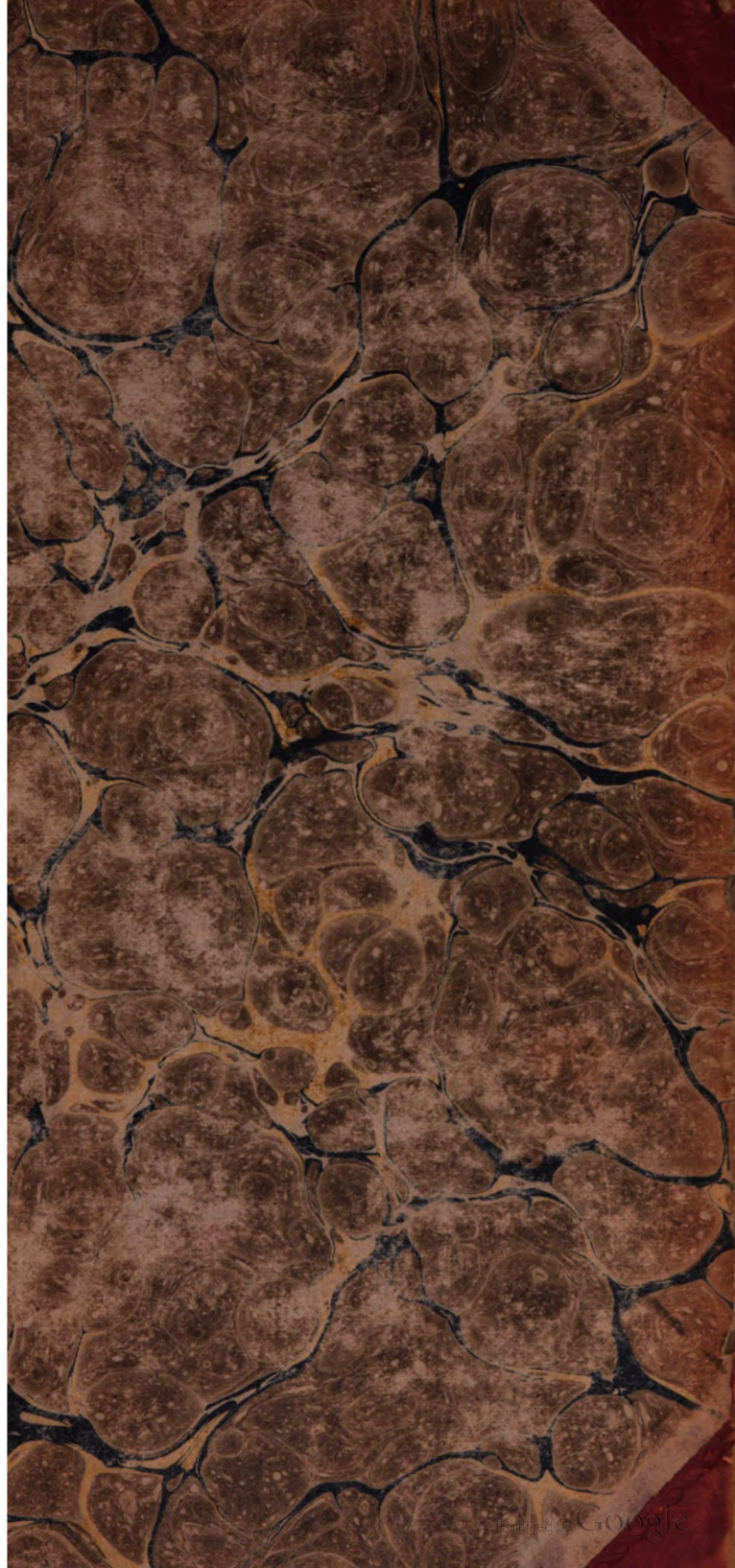

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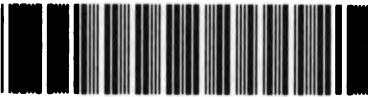




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THE
L I F E
OF
THE RIGHT HONOURABLE
SIR EDWARD COKE, KNT.
&c.

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J.H:1826.

THE

LIFE

OF



THE RIGHT HONOURABLE

SIR EDWARD COKE, KNT.

LORD CHIEF JUSTICE OF THE KING'S BENCH,

&c.

BY

HUMPHRY W. WOOLRYCH,

OF LINCOLN'S-INN, ESQ.

BARRISTER AT LAW.

LONDON:

J. & W. T. CLARKE,

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1826.

791.

**Luke Hansard & Sons,
near Lincoln's-Inn Fields.**

TO

THOMAS WILLIAM COKE, ESQ.

OF

HOLKHAM,

IN THE COUNTY OF NORFOLK,

This Memoir

IS,

WITH HIS KIND PERMISSION,

RESPECTFULLY DEDICATED

BY THE AUTHOR.

P R E F A C E.

THE Author has endeavoured, in the following pages, to give as full a *Memoir* of Sir EDWARD COKE, as he has been able to collect from the historical and biographical information extant concerning that great Lawyer.

He believes that it has not been hitherto attempted to combine these consolidated details in a separate work; this he has for some time contemplated, and now submits, with much respect, to the Public.

8, King's Bench Walk, Temple,
November 14, 1825.

THE
LIFE
OF
THE RIGHT HONORABLE
SIR EDWARD COKE, KNIGHT.

IT is not uncommon, and sometimes certainly not indiscreet, for the biographer of great men to enter at once upon their histories, abstaining from previous comment on the times in which they lived, or the prevailing usages which influenced their actions. For it frequently happens, that points of character, which are represented by writers in different lights, depend on the opinions which men form of common occurrences in which the party has been engaged, or on general motives which have actuated him; with such the reader is acquainted by virtue of his own experience, and can himself judge competently of them, as he pursues the narrative. But where some emi-

nent person has been accused of many errors, and assailed by various prejudices; where the imputations cast upon him are to be weighed not so much by a reference to ordinary affairs, as to the manners of the age in which he lived; where again a discrepancy among authors as to the truth of these insinuations, compels us to balance the credit due to each; it is both just and candid to give some warning of these coming differences, and to reveal, in substance at least, the character of the times to which they have relation.

Sir Edward Coke had the fortune to be exposed at different periods of a long life to the most severe calumnies, the most mortifying scurrilities, and the most painful privations; and although a future opportunity will be found for the discussion of his general character, yet, as pride, obstinacy, severity, and even favouritism, were strongly urged against him, the attention of the reader shall be briefly directed to the ruling influences which swayed the man, and the courtier of his day.

Education, the spring of intelligence and independence, was for the most part confined to men of rank and fortune; and the exercise of reason was permitted to these only as far as it harmonized with the temper of existing

authorities. The auspicious beamings of the Reformation had indeed shed forth a partial light ; but the gloomy sternness of Henry, and the arbitrary capriciousness of Elizabeth, were but ill calculated to give due energy to the new state of things which they had established. Implicit and unwavering obedience to power was therefore the first lesson taught to youth, the first practice adopted by manhood, and the best interest known to age. We are not to conclude, that there were no characters excepted from this reign of subserviency, but the instant disapprobation manifested against them, and the punishments they suffered, show sufficiently the spirit of the age, and the temerity of those who dared to speak or act in opposition to it. In support of this, the example of Peter Wentworth need hardly be given. No sooner had this person asserted the freedom of debate, which he thought necessary to the House of Commons, than he was visited with a citation to the Star Chamber, and a month's imprisonment, being released at the end of that time only by the special grace of majesty. And on a reiterated expression of that independent feeling, he was committed to the Tower, with two or three others who had hazarded an opinion in his favour, during the Queen's pleasure. In

short, the laconic language of aye or no was the only means by which men, who are now most powerful members of the legislature, expressed their sentiments on public affairs, unless they chose to risk the censures of the court, with the penalties incident to them.

Severity, nursed up from the earliest dates of English history, still flourished when the unfortunate traitor or felon came before his judges. That refined tenderness towards the accused, which now so eminently distinguishes the tribunals of this country, which enlists every feeling on his side, and not unfrequently, for the sake of life and freedom, allows him to step beyond the strict regularities of practice; which, if there be the least doubt as to his misconduct, operates most strongly for his acquittal, was utterly unknown to the judicial benches during the sixteenth and seventeenth centuries. With regard to those unhappy persons, we find the same influence prevailing which M. Cottu denounces as too common in the criminal courts of France,—an inclination to believe every ill against the prisoner, and an anxiety to exclude all expectation of his innocence.

Born under a grasping and self-sufficient dominion, it was no wonder that the industrious and the ambitious looked for promotion to

those who were in highest favour with the chief authorities, and that, having attained to advancement, either from gratitude or interest, they allowed themselves to be guided by those favourites, and acceded to their fullest wishes. We must not, then, be surprised to find great places, weighty affairs, even men's lives, at the disposal of courtiers, since the principal agency on these occasions was managed by such as had thriven under power, and were naturally fearful of losing the advantages they had acquired through their servility.

The courtier's image has been almost already depicted : he was prodigal of his flatteries to obtain power, and careless by what means he secured his rising ; he attached himself to the coming fortunes of the time, and diligently waited on the dispositions of those whom he served. Haughty from success, he exacted the same obedience from others which he had himself practised, and while he scrupled not to ask concessions at the hands of those whose consciences and duties must have prompted them to deny his requests, he never failed on the slightest defeat, through his subordinate agents, or his own personal influence, to traduce the characters of any who had resisted him, and, if practicable, to deprive them at once of good

fame and employment. If then, in the authors which we shall have occasion to quote, our celebrated chief justice is reproached for pride and obstinacy in disputing the King's prerogative in some cases, it is fair to conclude, that he might have deviated from the accustomed humiliations required by the Crown ; if he is loaded with censure for his harsh treatment of illustrious nobles or state prisoners when on their trial, it must be recollected at the same time that we may confess our inability to justify his conduct, that such severity had long been in unison with the overbearing temper of the times ; if he is proved at one time to have yielded his sense of duty to the capricious courtings of a favourite, repeated instances of corruption assure us, that to obey such influence was then hardly esteemed an error ; and when afterwards he is found to withdraw his countenance from such usages, we shall rather be disposed to regard him with admiration, who, while an overweening desire for private advantage was predominant, resolved, in spite of opposing prejudice, and probable disgrace, to act conformably with the spirit of the constitution. The opinions, as well of his panegyrists as of his assailants, are to be duly balanced and appreciated ; we shall distinguish between the

remarks of the courtier and the puritan, the declared enemy and the faithless friend, the advocate of strict government and the zealot for liberty.

The name of Coke, or Cocke, is of great antiquity ; it signified a river among the ancient Britons ; and there are at this day many places which substantiate its origin, as Cokesford and Cock-Thorpe, in Cumberland ; Cokely, in Suffolk, &c. (a)

His name has ever been highly estimated in the county of Norfolk. In early centuries many manors and lordships were in the possession of our Judge's ancestry ; in after ages the prosperity of his family was distinguished by the renown of their merits, and the value of their inheritances ; the Chief Justice was happy in the accumulation of honours and fortune ; and if we search among his descendants we shall discern many considerable persons, the last Earl of Leicester, and the present most respected owner of Holkham.

It may be right, before an enlarged account of these individuals is entered upon, to point out one writer, Mr. Lloyd, who, in his State Worthies, has altered the spelling of

(a) Blomefield's Norfolk, p. 812.

Coke to Cook (*b*). That he was in error appears sufficiently from biographers and historians, who unite a general testimony in favour of the first name, and, what is more confirming, from the customary handwriting of Sir Edward in his signatures (*c*): the pronunciation, however, is conformable to Mr. Lloyd's orthography.

The pedigree, from which the most ample and accurate information has been derived, was drawn by Camden, the learned antiquary (*d*); it was in the hands of Thomas Lord Lovel in the middle of the last century, when Collins wrote his Peerage (*e*), and is doubtless yet existing, a document of chief curiosity and value.

William Coke of Dodington, or Didlington, in South Greenhow, a hundred of Norfolk (*f*), is mentioned in a deed as far back as the year 1206, (8 John). He is said to have held, in the same year, the lordship of South Burgh, in

(*b*) Lloyd's *State Worthies*, vol. ii. p. 109. by Whitworth, where the Editor has supplied the name of Coke under an asterisk.

(*c*) *Biog. Brit.* tit. Coke, Sir Ed. citing his letter as transcribed from an act of council.

(*d*) Collins's *Peerage*, vol. iv. p. 347.

(*e*) *Ibid.*

(*f*) Blomefield's *Norfolk*, vol. v. p. 805. Collins, p. 347.

Mitford Hundred, and to have conveyed lands, subject to knight's service, to William, son of Galeran (*g*). Geffry and Thomas followed (*h*); after whom we find Roger and Robert mentioned as lords of Dodington, the former in 34 H. III, the latter in 9 Ed. I. Thomas, son of the first Thomas, had the seignory in 44 Ed. I, and John, his son, in 9 Ed. II. He was the father of Sir Thomas Coke, who possessed the manors of Maunby and Faulden in addition to his patrimony (*i*). From him sprang another Sir Thomas, celebrated for valour and wisdom; who so eminently signalized himself in the wars of King Edward the Third, that the degree of knight banneret, an honour only bestowed on the field of battle, was conferred upon him. In 22 Ed. III, he had a grant of 100*l.* annually to sustain his rank; and a few years afterwards an estate valued at 200*l.*, a vast sum in those days, was given him (*i*). This gentleman was at one time seneschal of Gascony (*k*); he died in his father's lifetime, and his son leaving no issue the inheritance descended upon his brother,

(*g*) Blomefield, p. 806. Collins, p. 347.

(*h*) Ibid.

(*i*) Blomefield's Norfolk, p. 806. Abbrev. Rot. Orig. pp. 320. 333. Collins's Peerage, p. 348.

(*k*) Ibid.

who was living at Whitwell in 1362. John of Crostwick, who removed to East Ruston, and four more, came next in lineal succession; but the last of these dying without issue, Robert, the second brother, who had acquired by marriage the manor of Sparham, became the leading member of the family. He had two sons, Robert, Sir Edward's father, who was seated at Mileham, and Thomas, lord of Gambons, in Whitwell (*l*). The former married Winifred, daughter and co-heiress of William Knightley, of Margrave Knightley, in the county of Norfolk, descended from the Knightleys of Fausley in Northamptonshire (*m*), by whom he had eight children, and of these the Chief Justice was the eldest (*n*).

His father was bred to the law, grew into considerable practice, and became in time a bencher of Lincoln's-Inn, where he died in chambers on the 15th of November 1561, aged forty-seven, while his son Edward was at Norwich school (*o*). A tablet, in remembrance of him, was placed in the church of St. Andrew

(*l*) Blomefield's Norfolk, pp. 806, 807. Collins, p. 348.

(*m*) Blomefield, p. 808. Collins, p. 349.

(*n*) Stow's Survey of London, book iii. p. 249. Blomefield, p. 808. Biog. Brit. tit. Coke, Sir Ed.

(*o*) Collins, p. 349.

Holborn (*p*); but there are various accounts as to the author of this mark of respect, some ascribing it to his wife (*q*), others to the subject of this memoir (*r*).

Sir Edward was twice married. His first wife was Bridget, daughter and co-heiress of John Paston, of Huntingfield Hall, Suffolk, Esq. (*s*); the second, Elizabeth, daughter of Thomas Cecil Earl of Salisbury, and relict of Sir John Newport, otherwise Hatton (*t*). The former gave him seven sons and three daughters; the latter two daughters.

A very succinct mention of these may not be unacceptable. Of the daughters, Elizabeth died young; Anne married Ralph Sadler, Esq. son and heir of Sir Thomas Sadler; and Bridget became, 22 Jac. I, the wife of William Skinner, Esq., son and heir of Sir Vincent Skinner. His eldest son, Edward, died in infancy. Robert, the second, was knighted, and married Theophila, only daughter of Thomas Lord Berkley, ancestor to the present earl of Berkley, and died, aged 67, July 19, 1653, leaving no

(*p*) Stow's Survey of London, book iii. p. 249.

(*q*) Blomefield's Norfolk, p. 807.

(*r*) Biog. Brit. tit. Coke, Sir Ed. Salmon's Herts. p. 240.

(*s*) Collins's Peerage, p. 349.

(*t*) Blomefield, p. 807.

issue. He was buried at Epsom, where his monumental inscription may be seen (*u*). Arthur, the third, married Elizabeth, daughter and heir of Sir George Walgrave, of Mileham, in Norfolk, knight, and died at St. Edmondsbury, Dec. 6, 1629, leaving four daughters his heirs. John, the fourth son, was of Holkham, and married Meriel, daughter and heir of Anthony Wheatley (son of William Wheatley, prothonotary of the Court of Common Pleas); by whom he had seven sons and seven daughters. The estate, however, devolved at length on the youngest son John, who dying unmarried, Henry, the Judge's fifth son, came into possession of Holkham (*x*). These particulars concerning Sir Edward's posterity have been copied from Collins's Peerage; and it may not be amiss to follow the example of that writer in accounting for the sixth son, Clement, before we proceed to the immediate ancestry of the Earl of Leicester. Thomas, the seventh, died an infant. Clement Coke, Esq. married Sarah, daughter and co-heiress of Alexander Redich, of Redich, in the county of Lancaster, Esq., whereby, it is said, that he augmented the inheritance of Longford, in Derbyshire, left him

(*u*) Biog. Brit. tit. Coke, Sir Ed.

(*x*) Collins's History of the Peerage, vol. iv. p. 353.

by his father. He was a lawyer of the Inner Temple, where he died May 23, 1629, leaving two sons and two daughters, as the inscription on his monument in the Temple church shows (*y*). His eldest son, Edward, was made a baronet in 1641, but the title became extinct in less than a century afterwards, and the estate was devised to the brother of Lord Leicester. We come now to the Holkham branch, of which the first member was Henry, the Judge's fifth son. He was seated at Thurrington, in Suffolk, and married Margaret, daughter and heir of Richard Lovelace, of Kingsdown, Kent, Esq., by whom he had four sons (*z*). His eldest son, Richard, was of Thurrington, and left Robert, who was the fortunate inheritor of the seat at Holkham, and the greatest part of Sir Edward's

(*y*) He is celebrated for a speech of great boldness, when member for Aylesbury, in 1626, in a debate on the propriety of granting supplies to the king. On that occasion he declared, that it was better to die by a foreign enemy than suffer at home; which saying so stung the court, that they persuaded the Upper House to appoint a committee for the consideration of the public defence, and the safeguard of the seas; on which the equipment of a fleet to act against Spain, and another to protect the coasts and trade, was advised; thereby displeasing the Commons, who took great umbrage at the origin of measures, which required money elsewhere than amongst themselves.—Hist. of the House of Stuart, p. 84. Echard's Hist. of England, vol. i. p. 427.

(*z*) Collins, p. 356.

estate. From him sprang Edward, who had five children, the eldest of whom was Thomas (*a*). This gentleman is represented as a constant attendant in Parliament, and to have possessed considerable merit, on which account, on the revival of the order of the Bath, he was made a knight companion; in 1728 he was created Lord Lovell; in 1733 was constituted joint postmaster-general of Great Britain; and in 1747 was raised to the dignities of Viscount Coke and Earl of Leicester (*b*). He had one son, Edward, who married the Lady Mary, daughter of the Duke of Argyle, and died before his father, in 1753, without issue. The Earl died April 20, 1759, whereby the titles became extinct (*c*). It only remains that we should point out the subsequent disposition of this magnificent inheritance. Edward, the Earl's brother, was, as we have learnt, the possessor of the Derbyshire property through the failure of Clement Coke's posterity. On his death, in 1733, Robert, his youngest brother, succeeded; and when he died, in 1737 (*d*), the male line, with the exception of Lord

(*a*) Collins, p. 356.

(*b*) Biog. Brit, tit. Coke. Sir Ed. Collins, p. 356.

(*c*) Blomefield's Norfolk, p. 899.

(*d*) Ibid.

Leicester, had failed. The estate of Longford then came to Wenman Coke Roberts, Esq., the son of Philip Roberts, Esq., by Anne, sister of the three brothers last mentioned (*e*). This gentleman, three years before the death of the Peer, and consequent extinction of the honours, took the name of Coke (*f*), probably, in consideration of the good fortune which awaited him; for he inherited the vast mansion and property in Norfolk, by desire, from his noble ancestor (*g*), after the decease of the Countess dowager. His eldest son, Thomas William Coke, Esq., the present member for that county, is now the hospitable and dignified owner of those admired possessions; and Edward, the second, who has represented the town of Derby in many parliaments, possesses Longford. Although it need scarcely be observed that we are not writing the history of Holkham, it would not be pardonable if all mention of an inheritance were omitted, which has descended from an ancestor so honourable, to an heir so worthy of its splendor.

(*e*) Bleomfield, p. 809.

(*f*) Lysons's Mag. Brit. Derbyshire, p. 79. Betham's Baronetage, vol. i. p. 510. where it is said, that the name of Roberts was exchanged on the death of Lord Leicester.

(*g*) Wilson's Biog. Index to the House of Commons for 1806, p. 135.

Holkham, or Hoe-lig-ham, was formerly of such consequence, that in the 4th year of Edw. II. the King's writ was sent to this amongst other neighbouring towns, directing that ships should be provided for the King's service in Scotland; and the same eminence remained attached to it in the next reign (*h*). It is now a village, remarkable for the sumptuous edifice built by the last Earl of Leicester, which was finished by Margaret his widow, in 1764, at an expence of 11,000 *l*. Several endowments for the maintenance of indigent and widowed persons bear ample testimony to the honour of this lady; nor was she less tender of the interests of religion, for in 1767 the church was repaired and embellished solely at her cost (*i*).

To descant on the varied elegancies of a structure, which is not more the admiration of our countrymen than of foreigners, more properly belongs to the province of topographical description, yet there are superior delicacies and beauties attached to it, which, sanctioned by the tribute of universal repute, deserve a slight notice. The convenience of internal arrangement, the sweeping vistas which expand

(*h*) Blomefield's Norfolk, p. 809.

(*i*) Ibid.

themselves before the delighted visitant, the exquisite workmanship of the statues, the rare art which is revealed amidst a collection by the first masters, warrant an expression of satisfaction, which, if subject to repetition, would seem a perpetual topic for flattery (*k*).

Elizabeth, the eldest daughter of Sir Edward by his second wife, died unmarried; and Frances became the wife of John Viscount Purbeck, but left no issue (*l*).

Mileham, a village in Norfolk, was the birth place of this incomparable lawyer, where, it seems, he remained during his early years. Those who delight in prognostications and superstitious authorities, will probably argue something remarkable from his mother's unusual delivery. The Judge informed Sir Henry Spelman that she was so suddenly relieved of her charge, while sitting by the fire-side, that there was not time to remove her to a neighbouring bed before the event took place (*m*). This happened in 1549, and the author of *Magna Britannia*, who wrote about the year 1724, asserts that the house where it occurred

(*k*) See the Norfolk Tour, 1777. *Holkham*, p. 254.

(*l*) Collins's Peerage, vol. iv. p. 355.

(*m*) Spelm. *Icenia*, p. 150.

was then to be seen (*n*). The excellent parent, to whom allusion has been made, reared her illustrious child with the most assiduous tenderness; and it is recorded to his credit, that he entertained the highest veneration for her memory (*o*). There is no mention, however, of those early flashes of intellect which are so often attributed to great men; had any such been elicited from him, they would, doubtless, have long since been marshalled into the lists of literary anecdote; it is, therefore, more than probable, that he returned the caresses he enjoyed with a full measure of obedience and industry; and that, while he displayed no signal efforts of genius, he was giving an earnest of that solid and penetrating character which assisted his rapid elevation, and adorned his eminent advancement. At the age of ten years he was sent to the Norwich free-school, which was in high repute, and was placed under the care of Mr. Walter Hawe (*p*). Of his productions, while here, no tradition is given; but he is represented as conspicuous for diligence and appli-

(*n*) Magn. Brit. vol. iii. p. 301. Norf.

(*o*) Biog. Brit. tit. Coke, Sir Ed.

(*p*) Fuller's Worthies in Norfolk, p. 250. Biog. Brit. tit. Coke, Sir Ed. citing Antiq. Scholæ reg. p. 37.

ation, and no less distinguished for his proficiency (*q*). In 1567 he went to Trinity College, Cambridge, and, according to Dr. Fuller, was committed to the tuition of Whitgift (*r*); but the editor of *Biographia Britannica* has assigned a good reason for believing this disposal of young Coke to be an error; for it appears, that at the time of his entrance at the university, the archbishop was a fellow of Peter-house; and, of course, could not have acted as tutor at Trinity (*s*). The foundation of the mistake seems to be, that when Coke was made the Queen's attorney-general Dr. Whitgift sent him a new Testament, as a present from the ancient master to his pupil; a connexion which, as the same editor justly observes, might in after-times have been recorded as once existing between the head of a college and the student (*t*). There is, however, another circumstance which might have occasioned this error: Sir George Paul, in his life of the archbishop, fixes the

(*q*) *Biog. Brit. tit. Coke, Sir Ed.*

(*r*) *Worthies, p. 251.*

(*s*) *Strype's Life of Whitgift, pp. 9, 10. Biog. Brit. tit. Coke, Sir Ed.*

(*t*) See *Biog. Brit.* where, however, the name of George is misplaced for John.

date of his degree as doctor in divinity in 1569 (*u*), for which he is corrected by Strype, who has given the true time, 1567. It happened also, that in the same year he became successively master of Pembroke Hall and Trinity College; it is not impossible then, that Dr. Fuller, not adverting to his fellowship at Peterhouse, and relying on Sir George's authority, for his subsequent promotions, might have imagined that during the interval of two years above referred to, the care of that eminent churchman had been bestowed in the manner he has described.

The same uncertainty which hangs over the progress of Coke's early youth, attends us during the years of his university education. Conjectures are often incorrect, and always unsatisfactory; it is therefore sufficient to intimate the probability, that during a stay there of four years (*x*), his mind acquired fresh resources and increasing stability. It must also be allowed, as highly credible, that he acquired the degree, or other honours conceded to students of his standing. This, however, is

(*u*) Paul's Life of Archbishop Whitgift, p. 5.

(*x*) Lloyd's Worthies, vol. ii. p. 109. Fuller's Worthies, p. 250.

certain, that the law was the great field for the play of his intellect : it will appear that he had no sooner engaged in the studies of that profession, than the shrewdness and penetration of his character were exhibited in all their keenness; his rapid success evinced that he had made a wise choice, and his indefatigable toil that he was gifted with perseverance to sustain his fortune.

In 1571 he was entered of Clifford's Inn, and the year after became a member of the Inner Temple (y). Here his capabilities were acknowledged, and his proficiency appreciated; for he had not long been a student before the Cook's case of the Temple, which had puzzled the whole house, as Lloyd informs us, afforded him an opportunity of revealing that legal acumen, both in the perspicuousness of his statement, and the rectitude of his pleading, which gave a likely prophecy of his future eminence, and immediately procured for him considerable notice and approbation (z). For it is related that the whole bench, before whom

(y) Lloyd's Worthies, vol. ii. p. 109. Fuller's Worthies, p. 250.

(z) Lloyd's Worthies, vol. ii. p. 109.

the matter was argued, were attentive whilst he was speaking ; and that the society to which he belonged bestowed their admiration upon exertions, which had unravelled the difficulties they had in vain attempted to surmount (a). At the time when this event took place, exercises, or mootings as they were then called, were enforced in strictness by the benchers of the several inns (b) ; they were considered as necessary means of improvement, for the purposes of promoting and trying the qualifications of each aspirant to the bar. Yet such is the construction of modern pleadings, that through the careful efforts of an enlightened legislature, and the liberal interpretation of our judges, it is not more common now for a suitor to fail through the misapprehension of his counsel than in the ancient days of form and preparation. It was, however, at one of these formidable essays that the future Chief Justice displayed the powers of his understanding ; and although the usual time of probation was eight years (c), such were his attainments, that at the end of six he was judged competent to sustain the interests of

(a) Lloyd's Worthies, vol. ii. p. 109.

(b) See Dugd. Orig. Jur. p. 158.

(c) Ibid.

clients, and went to the bar accordingly, — a distinguished instance of early promotion (*d*).

He did not wait long for practice or advancement. He dates his first appearance in the Court of Queen's Bench in Trinity Term 1558, in a cause of much importance to the parties, and interest to the public.

It was an action brought by Lord Cromwell against Mr. Denny, Vicar of Northlinham in Norfolk, for slander, upon the statute *De scandalis magnatum*. Judgment was given for the defendant, on account of the insufficiency of the declaration; on which another action was commenced, and after some exceptions to the pleading, the affair was compromised. After reporting that the judges warned the defendant in this case against a demurrer, which admits the facts on the record, and leaves the decision entirely to the court on points of law, he concludes by advising pleaders, that although they may be of opinion that the plaintiff has no cause of action, they should not hazard their client's case on a demurrer, but await the advantage which might arise from matters of fact; and rely generally, that the matters of law

(*d*) Lloyd's Worthies, vol. ii. p. 109. Fuller's Worthies, vol. ii. p. 129.

would be saved, as it happened in the proceeding before him, for subsequent deliberation (e).

Not long after this he was chosen Reader to Lyon's Inn for three years (f). This was a station peculiarly favourable to his fortune; he could now reflect with pleasure on the legal treasures he had accumulated, and on the success which enabled him to give his knowledge to the world: without learning he had never attained to reputation, without fame he had never gained his readership, especially at so early a standing; without the opportunity of imparting his researches to others, he had lost the advantages ever most valuable, of diffusing the thought in explanation, and acquiring imperceptibly the sanction of public approval. From the character he had established, it is not surprising that his lectures drew a numerous audience; and we are told, that the fruit of their good opinion was an extensive and increasing business (g). He grew quickly, indeed, into such repute, that a host of clients were in constant attendance for the benefit of his counsel (h), so that the pre-

(e) Coke's Reports, part iv. p. 12.

(f) Lloyd's Worthies, vol. ii. p. 109. Fuller's Worthies, vol. ii. p. 129.

(g) Ibid.

(h) Ibid.

dominating superiority of his abilities must have been soon felt and acknowledged.

Embarked in a thriving and lucrative profession, and at the same time careful of the ample estate he had inherited from his father, Sir Edward was no doubt conscious of his consequence, and opening eminence; he was frugal of his time as of his means, and while he neglected no leisure in adding to his acquirements, he had adopted habits of regularity and exercise, which in no slight degree maintained his health. He had now to look around for the main support of a virtuous and active life, a partner to share its fortunes, and, surrounded as he was by a train of flowing prosperities, his choice was dignified, and his success certain. He made his addresses to a lady of high and honourable family, whose father was the third son of Sir William Paston, of Paston, in the county of Norfolk, and a descendant of William, a judge of the Common Pleas in the reign of Henry the Sixth.

His sister married Thomas Earl of Rutland, by whom she had Henry Earl of Rutland, Gertrude Countess of Shrewsbury, Ann Countess of Westmorland, and Frances Lady Abergavenny; so that, besides a portion which, *vis et modis*, as it has been quaintly termed, amounted, at a

moderate calculation, to 30,000*l.* he was advantaged by a near alliance to nobility (*i*).

It has been supposed that this marriage was contracted with Mrs. Bridget Paston about seven years after his call to the bar, although there is no account mentioned of her nuptials or decease (*k*). Her inestimable value is, however, clearly manifested by the eulogies which are lavished on her character, and the distinguishing title of the 'incomparable' woman which was bestowed upon her. Her rank was among the chief families in the county, and her fortune among the most ample (*l*). She enriched her husband with ten children; and it is not a slight tribute to her memory, that such as reached maturity supported their respective stations in society with dignity and honour.

The current of preferment now flowed rapidly in favour of Sir Edward; he was chosen Recorder of Coventry and of Norwich (*m*), and pursuing his practice at the same time with unabated

(*i*) See Fuller's Worthies, vol. ii. p. 128. Lloyd's Worthies, vol. ii. p. 109. Blomefield's Norfolk, p. 808. Collins's Hist. of the Peerage, vol. iv. p. 349.

(*k*) Biog. Brit. tit. Coke, Sir Ed. note (c).

(*l*) See Lloyd's Worthies, vol. ii. p. 109. Collins's Hist. of the Peerage, vol. iv. p. 149.

(*m*) Collins, p. 350. Lloyd, p. 109. Fuller's Worthies, p. 250.

fortune, he was employed in the principal suits determined at Westminster, and occasionally consulted even on matters appertaining to royalty (*n*). But the main-spring of his unprecedented advancement was, doubtless, the great Lord Treasurer Burleigh, whose esteem and patronage he had eminently secured for himself at this time (*a*). When he is represented as

(*n*) See Biog. Brit. tit. Coke, Sir Ed.

(*a*) Several of Coke's letters to Lord Burleigh are stated, by the Editor of the General Dictionary, to have been in the hands of James West, Esq. of the Middle Temple; he enumerates some of these, and gives the following entire, which is transcribed from thence:—

“ Right honourable, My dutie most humbly remembered, I thought it my dutie to offer my humble service to your lordship, wherein it shall please your lordship to commaund me, and to giv your lordship most humbl thanks (among many other favoures) for this present libertie. I would to God your lordship's bodye (whereof your lordship somewhat complayned when I last attended on you) were of such strength and vivacitie, as the admirable memorie and other inward guifts be, wherewith God hath most abundantly blessed your lordship withall. This unseasonable wynde and rayne (which our countrie hath tasted in so great abundance) is to be feared will continus this present dearth, wherewith our countrie (which is exceedingly replenished with poore) is grievouslie afflicted, unles God of his mercy do send a more seasonable time to ripen, and inne corn and other commodities. And thus I most humblie take my leave, and rest in all things at your lordship's commaundment, with all thankful readines,

From Godwicke, this 3d of August, 1597.

Your Lo. most humble at commaundement,

*Edw. Coke.**

* General Dictionary, vol. iv. p. 282.

the frequent adviser, and soon afterwards as the permanent advocate of the Crown, an office which has ever placed high rewards and dignities in prospect, it is not difficult to attribute the recommendation of the acute and enterprising lawyer to that experienced and penetrating statesman.

It should not escape our notice, that amidst the arduous employments in which he was engaged, he found ample leisure to note down the legal transactions of his day, and, by degrees, to consolidate his valuable collection for the service of the public, under the title of Reports, which at that time were, by reason of their scarceness, much in request. He began this beneficial custom, as he informs us in his Prefaces, in the year 1580, 22 Eliz., perfecting the information he acquired during hours of relaxation (*p*), of which he was a great economist, since he rose from bed at three every morning; and yet so careful was he of the correctness of these writings, that he did not permit the publication of any part until near twenty years after the first had been composed.

In 1591 he was chosen Recorder of London (*q*); and from the usage which then almost

(*p*) See Pref. to Coke's Reports, part i. and part x.

(*q*) Stow's Survey of London, book v. p. 161.

invariably prevailed, of promoting that officer to the highest judicial seats, he could not but consider himself in some measure repaid for the unwearied toils and painful researches of his youth. If he now indulged in the expectation of high fortune, he certainly had not entertained a vain or undue hope; for whilst his credit became established with his sovereign, the freeholders of his native county had appreciated his merits, and were prepared to bestow their confidence upon him on the earliest occasion. He was also the Autumn Reader of the Inner Temple Society in this year.

On the 16th of June 1592, he succeeded Sir Thomas Egerton in the place of Solicitor General (*r*), and resigned his recordership about the same time. Nor was this all the honour in store for him, for in the Queen's eighth parliament, which met in November in the same year, he was returned member for the county of Norfolk, and elected Speaker of the House of Commons (*s*). On the 22d of the following February he was placed at the bar of the Upper House, in the Queen's presence, for the purpose of receiving her approbation of his advancement, and, according to the confirmed practice, deli-

(*r*) Dugd. Chron. Ser. p. 99.

(*s*) Willis's Not. Parl. vol. iii. p. 131.

vered an address fraught with the usual expressions of humility and diffidence. As, however, the speech he employed was graced with a peculiar neatness and aptitude of language, and as it drew from the Queen an acknowledgment of his superior merit, the reader may not be displeas'd at its insertion in this place :—

“ Your Majesty’s most loving subjects, the knights, citizens and burgesses of the House of Commons, have nominated me, your Grace’s poor servant and subject, to be their Speaker. Though their nomination hath hitherto proceeded, that they present me to speak before your Majesty, yet this their nomination is only as yet a nomination, and no election, until your Majesty giveth allowance and approbation; for, as in the heavens, a star is but *opacum corpus* until it have received light from the sun, so stand I, *corpus opacum*, a mute body, until your Highness’s bright shining wisdom hath looked upon me, and allowed me. How great a charge this is, to be the mouth of such a body as your whole Commons represent, to utter what is spoken, *grandia regni*, my small experience, being a poor professor of the law, can tell. But how unable I am to do this office, my present speech doth tell, that of a member in this house I am most unfit; for amongst

them are many grave, many learned, many deep wise men, and those of ripe judgments; but I am untimely fruit, not yet ripe, but a bud scarcely blossomed; so, as I fear me, your Majesty will say, '*neglectâ frugi eliguntur folia,*' amongst so fair fruit ye have plucked a shaken leaf. If I may be so bold as to remember a speech (which I cannot forget), used the last Parliament, in your Majesty's own mouth, Many come hither '*ad consulendum qui nesciunt quid sit consulendum;*' a just reprehension to many, as to myself also, an untimely fruit, my years and judgment ill befitting the gravity of this place. But, however, I know myself the meanest, and inferior unto all that ever were before me in this place; yet, in faithfulness of service and dutifulness of love, I think not myself inferior to any that ever were before me; and, amidst my many imperfections, yet this is my comfort, I never knew any in this place but if your Majesty gave them favour, God, who called them to the place, gave them also the blessing to discharge it (f)."

In this speech, besides the ordinary depreciation of his talent which every new speaker was wont to indulge in, a species of hypocrisy

(f) Hansard's Parliament. Hist. vol. i. p. 860.

and negative egotism now justly laid aside, the subtle lawyer made a most correct and triumphant allusion to his youth^(u), and early advancement; and it may be remarked, that his quotation of the Queen's forbidding language, might, under the semblance of compliment, convey a tacit reproof of her impatience. However this might have been, a flattering and unqualified approbation of the Commons' choice was rehearsed to him by the Lord Keeper, on which he entered on his office, and felicitated her Majesty on the glorious discomfiture of the Armada, and then made the expected acknowledgement of her supremacy. Those who declaim against the intricate legislation and subtle judgments of modern times, will, perhaps, be disposed to question the patience or the veracity of the Solicitor General in 1592, who declared, that the laws might well be called Elephantine; and that it would be superfluous to increase them. But if there are any who hold such an opinion, they must be reminded, that the treasuries of old legal learning, are now seldom resorted to; that the innumerable adaptations of ancient writs have given way to more simple and serviceable processes; and

(u) He was only forty-two years of age.

that, while indeed the decisions of our courts proceed on more narrow and uncertain bases, the principles of law are not so intimately investigated, and consequently not so generally understood. The Speaker then, in the accustomed way, prayed liberty of speech, which the Lord Keeper, on the Queen's behalf, allowed; but explained the meaning of that licence to be aye or no, and not the full and free discussion of thought which now prevails in our representative assemblies. He next required freedom from arrests, which was granted; with a caveat, that under colour of that privilege no man's ill doings, or non-performance of duties, should be covered or protected; and lastly, he invoked the royal assent on such matters as should be agreed on, which was also conceded, on condition that the occasions should be urgent and weighty, and the times of demanding access convenient^(x). On the 27th of February Mr. Coke showed his customary caution and discernment; Mr. Morice, attorney of the Court of Wards, had moved for leave to bring in a bill concerning the imprisonment of ministers for refusing to take the oaths prescribed to them by bishops, ordinaries, and

(x) Hansard's Parl. Hist. vol. i. p. 861.

ecclesiastical judges (y), on which a warm debate arose. It was agreed, that the abuses complained of had been highly exaggerated; and those who seemed well disposed towards the bill, urged, as a strong reason for its rejection, the express commands of the Queen, that the House should not meddle with the reformation of any matters in church or state. The Speaker on this, in very guarded terms, admitted the importance of the subject, but begged permission to consider the purport and details of the bill, which, on a motion for that purpose, was delivered to him. The delay he asked was judicious and fruitful; for he was summoned to court in the afternoon, and on the next day rose in his place to declare the express charge of the Queen, 'that no bills touching matters of state, or reformation in causes ecclesiastical, be exhibited;' and he added, that he was enjoined on his allegiance not to read any such bill if it were presented.

The mover was about the same time sent for, and committed to the custody of the Chancellor of the Exchequer (z).

(y) See Hansard's Parl. Hist. p. 875. Faller's Church History, book viii. p. 209.

(z) Hansard's Parl. Hist. p. 888. Oldmixon's Hist. of the Stuarts, p. 604.

On the 16th of April, after a long and careful harangue by the Speaker on the dignity and antiquity of Parliaments, the usual formalities of dissolution took place, and Sir Edward's high employment was dispensed with (*a*). We are not to assume, however, that he had conducted himself with inability or incorrectness in his office, for the present usage of electing the same member to fill the Speaker's chair in successive Parliaments was of very rare occurrence in those times (*b*). And it may not be difficult to assign a good reason for our departure from ancient custom; since now that the liberty and representation of the people is better established and understood, the laws and privileges of their high assembly, with which it is the duty of their chief officer to be intimately acquainted, have become much more numerous, require more study and attention, and call for a full measure of assiduous experience.

Exactly one year after this, on the advancement of Sir Thomas Egerton to the Mastership of the Rolls, the post of Attorney-General be-

(*a*) Hansard's Parl. Hist. p. 894.

(*b*) See Willis's Not. Parl. *passim*.

came vacant, and Mr. Coke succeeded to it (c). It was on the opening thus created that the great Sir Francis Bacon made such strenuous and persevering interest, through the medium of his patron Lord Essex, to be made the Queen's solicitor (d); and, as he reproached Sir Edward some time afterwards with being a main instrument of his disappointment (e), it properly belongs to this place to notice and examine the charge. It cannot be denied that when Bacon wrote thus, "I missed the solicitor's place, the rather, I think, by your means,"—he considered his eminent contemporary in the light of a formidable and successful rival; and it is not unlikely that the rankling of foiled ambition might have preserved a keen recollection of past ill services.

But independently of the consideration that these great men were tormented by a mutual jealousy and dislike, whence an exaggerated and violent expression might easily have arisen, many strong reasons may be alleged for supposing that the loss of this preferment should be attributed to other feelings, or accidents, and that the ill word of the attorney ought not to be

(c) Dugd. Chron. Ser. p. 99.

(d) Bacon's works, Lond. 4to. 1778, p. 185, *et seq.*

(e) Id. p. 234.

weighed even as a balancing feather in the scale.

The candidate for promotion was only thirty-four years of age, a time of life unprecedented, and no doubt believed unsuitable, for the high eminence he sought; and admitting, which may be safely done, that his comprehensive mind and unmeasured powers gave ample excuse for his ambition, there was, at that day, a spirit of envy more than ordinary, which was sufficient, on such an event, to brand the most able for presumption, or condemn him for ignorance. It has been mentioned that the Earl of Essex was Bacon's zealous friend; and the reader need not be reminded how much the Queen delighted in that wayward nobleman; she was herself captious at her pleasure, absolute in her authority, and unbending in her purposes. When we are told, then, that she was accustomed to mortify her favourite by rejecting his suits and neglecting his dependants, we might be tempted to conclude that, even in a matter so important, she might have pursued her usual bent, and indulged her wonted caprice (*f*). But the occasion of this failure may be more clearly traced: Cecil, Sir

(*f*) Life of Bacon, prefixed to his works, in 4to. Lond. 1788, p. vii.

Francis's near relation, perhaps jealous of his kinsman's talent, perhaps anxious to vex the Earl, who had asked earnestly the place of secretary for another, had represented the young counsel to his mistress as a man "of mere speculation, wholly given up to philosophical inquiries, new, indeed, and amusing, but fanciful and unsolid, and therefore more likely to disturb her affairs than to serve her usefully and with proper judgment (g)." It is difficult to conceive expressions more fitted to excite prejudice against a lawyer of that, or indeed any other day. The wily statesman had addressed a shrewd and penetrating woman; his advice prevailed, and Sir Francis was neglected.

An incident which occurred on the promotion we have lately mentioned shows that Dr. Whitgift, then Archbishop of Canterbury, had not forgotten his pupil; and if afterwards the strict forms of the church were insisted upon by that cautious prelate on Sir Edward Coke's second marriage, and severe censure denounced on his non-compliance with them, the rigour should be rather attributed to the scrupulous

(g) Life of Bacon, prefixed to his works, in 4to. Lond. 1778, p. vii. And see Stephens's collection of Bacon's Remains, p. iii.

conscience of a devoted churchman, who had witnessed the escape of his cure from Popish thralldom, and was eminently fearful of the slightest innovation (*h*), than to any personal dislike of a rising lawyer, whose success was a source of credit to his authority.

As soon as the Archbishop heard of his pupil's elevation, he sent him a new Greek Testament, with a message, 'that he had studied the common law long enough, and that he should thereafter study the law of God (*i*).'
And it seems that Lord Coke had not been inattentive to the purport of this friendly hint, for amongst the employments of his life we find—

"Sex horas somno, totidem des legibus æquis,
"Quatuor orabis, des epulisque duas."—Co. Litt. 23a.

It was about this time the irreparable misfortune of this great man to lose the valuable woman who had long been the companion of his domestic hours, by whom he had ten children, and whose life is celebrated for the exercise of virtue and honour. It had been well for him, perhaps, if her management and fair qualities had been longer granted to him; for such was the present prosperity of his fortune, such his aggrandisement and opulence, that, seeking

(A) See Strype's Life of Whitgift, p. 579.

(i) Fuller's Worthies, p. 251.

another wife, he looked up to no less a person than the sister of the famous Lord Burleigh, the relict of Sir William Hatton; an ambitious gratification, for which he afterwards suffered. This suit was accepted, but an unlucky censure followed the celebration of the nuptials. It appears, that in the year 1598, when the ceremony took place in a private house, a very strict and imperative letter had been written by Whitgift to his suffragan bishops, complaining of the administration of the marriage rites at unseasonable hours and undue places, and ordaining that the constitution, made in convocation respecting licenses, should be rigidly observed. By that rule it was directed, that all marriages should take place between eight and twelve in the forenoon, and in prescript places, that is, in the parish churches where the parties to be married, or their parents or governors dwelt (*l*).

It is true that offences against the constitution prescribed had prevailed to a great extent, and a conjecture has been hazarded in consequence that Mr. Coke did not advert to the prelate's remonstrances and threats (*m*); but it has also been hinted, that a sense of his own high situation and of his lady's rank, joined

(*l*) Strype's Life of Whitgift, pp. 522, 523.

(*m*) See Biog. Brit. tit. Coke, Sir Edw.

with the reflection that a full consent on the part of her family had been conceded, might possibly have induced him to imagine that a distinction would have been allowed in his favour (*n*). But Whitgift was no respecter of persons, the laws of his church had been invaded, he was zealously interested in upholding them with the plenitude of authority, a flagrant and apparently a wilful violation of them had been ventured upon before his eyes, and in consequence Mr. Coke, his wife, Mr. Bothwell, rector of Okeover, in Rutlandshire, who had married them (*o*), Lord Burleigh and others, were prosecuted in the Archbishop's court (*p*). The pains of ecclesiastical punishment had still a wonderful effect on men's minds, and these persons had incurred the severe penalties of the greater excommunication (*q*). By the lesser excommunication the offender was only deprived of the use of the sacraments and divine worship; the greater, in addition to those punishments, shut them out from the society and

(*n*) Biog. Brit. tit. Coke, Sir Edw.

(*o*) Collier's Eccles. Hist. p. 662.

(*p*) Biog. Brit. tit. Coke, Sir Edw.; citing Reg. Whitg. vol. iii. p. 108, A. D. 1598. This register is in the Archbishop's palace at Lambeth.

(*q*) Burn's Ecclesiastical Law, vol. ii. p. 466; citing Lind. 277.

conversation of the faithful (*r*). But this sentence extended much further than the mere banishment of the culprit from society, it loaded him with nearly every species of incompetency, and even excluded him from Christian burial (*s*); so that in its severities it might have borne a strong comparison with the ancient ban of præmunire. The King's attorney-general, therefore, found it necessary to sacrifice his pride and consequence, and to supplicate for a remission of the various evils to which he had subjected his friends in common with himself. Accordingly we find the request made, and complied with by a dispensation under the Archbishop's seal, which is registered in Lambeth Palace, and by which he absolved them from all the pains with which they were menaced; alleging their inadvertence and ignorance of the ecclesiastical law as an excuse for their misconduct and his mercy (*t*). It is not a little singular, that an occasion should have happened in the life of our Chief Justice to notice, however convenient the censure, his inattention to legal forms.

(*r*) Burn's Ecclesiastical Law, vol. ii. p. 243, citing Johns. 168.

(*s*) Ibid. p. 245, *et seq.*

(*t*) From an MS. in the British Museum, 6,093, entitled Registr. Archiep. Cantuar. xxxii. Whitgift, vol. iii. p. 161.

Notwithstanding this rebuke, Sir Edward preserved a hallowed remembrance of his tutor; for when, after his death, which happened in 1603, some slanderer assailed his character, the public advocate appeared against him in the Star Chamber, and the offender was either visited by a severe fine and imprisonment, or condemned to lose his ears and be pilloried (u). Nor was this attachment to a prelate the single instance of favour he manifested towards the church; a liberal and generous patronage of clergymen, a free and incorrupt distribution of benefices, are sufficient proofs of his veneration for the ecclesiastical establishment. Indeed, his constant maxim and appropriate pun, "That he would have church livings pass by livery and seisin, not by bargain and sale (x)," was an earnest of a very laudable practice in this respect. But the clergy of Norwich received the most distinguishing testimony of his kindness and partiality: he had, when Speaker, been mainly instrumental in passing an Act for quieting the possession of abbey lands, and sustaining all letters patents granted by King Henry VIII. for the foundation of deaneries

(u) Strype's Life of Whitgift, pp. 579, 580. Coke's Reports, part v. p. 125.

(x) Lloyd's Worthies, p. 109.

and chapters (y); an opportunity now presented itself of protecting the dignitaries of his own county, and he most honourably stepped forward to their assistance. There was a certain set of men in those days of indigent or desperate fortune, who were used to inform the Crown of usurpations on its grants, or detractions from its surrendered estates; they surmised, either that the subject had kept back a part of the property yielded, or encroached upon lands not mentioned in the conveyances (z). As, however, their charges were often malicious and untrue, promoted solely for the purposes of unjust gain, they soon fell into general disgust; and as they employed various artifices to suppress the real state of things, they were, in their turn, denominated the Concealers (a). For in the letters patents of concealment which they obtained from the Crown, they very craftily inserted a small part of the possessions they sought to grasp, taking care to put in such general words as would warrant them in seizing many more (b). On the hearing of these avaricious tales, the Crown, probably for some consideration, granted them, under general letters patent;

(y) 35 Eliz. c. 3. Biog. Brit. tit. Coke, Sir Edw.

(z) Collier's Eccles. Hist. p. 659.

(a) Ibid.

(b) Ibid.

the estates they, so pretended to have been withheld under colour of concealment. The attacks of these plunderers were principally directed against the church, and they might reasonably hope for success, both from the plausibility of their assertion that the vast wealth of the monasteries had not been duly surrendered; and from the supineness or connivance of the bishops, who, either through fear or the desire of profit, might be induced rather to aid than resist the innovation. In 1598 they assailed the deanery and chapter of Norwich; but they had previously prevailed upon the Bishop to cause a friend of his own to take an estate to him and his heirs from them of all or the greatest part of the monastery of St. Bennet's, which was, in effect, despoiling the cathedral church (c). It is no wonder that the Attorney-General became acquainted with these proceedings, or, that being informed of them, he felt indignant at an attempt which he considered obnoxious and illegal; he lost no time, therefore, in urging the Bishop, Dr. Redmayne, to consent that an Act of Parliament should pass for the establishment of the bishoprick and its possessions. With some difficulty his consent was obtained,

(c) Coke's Institutes, part iv. p. 257. Collier, p. 659.

and the bill, drawn by Coke himself, passed into a law (d). Being defeated in their expected appropriation of the episcopal revenues, they turned their grasping spirit against the deanery and chapter ; and the chief argument they adduced against this corporation was, that having surrendered their church and possessions to King Edward VI. their existence as a corporate body entirely ceased, and did not revive by the re-grant which was made to them ; but it was answered, that notwithstanding the surrender, the corporation continued, and that there might be a church without possessions ; on which the Lord Keeper Sir Thomas Egerton, Popham and Anderson, Chief Justices, and Chief Baron Periam, to whom the Queen, alarmed at the magnitude of the confiscation, had entrusted the affair, resolved that the claim to these estates had failed, and that if there were any imperfection in their title, it had long since been aided by the confirming statute of King Edward (e). Lord Coke observes, that this decision, although it pro-

(d) Coke's Institutes, part iv. p. 257. Collier, 659. 39 Eliz. c. 22.

(e) Coke's Institutes, part iv. p. 257. Coke's Reports, part iii. p. 73 ; Case of the Dean and Chapter of Norwich. Collier, p. 659, 660. 1 Edw. 6. c. 8. Statute of Confirmations.

perly concerned the meridian of Norwich, served to strengthen the establishments of many other cathedral churches, as well as those of our universities (*f*); and with regard to the church of his own county, he says, that their properties are secured to them beyond all future question, by an excellent quieting Act passed in the next reign, intituled, “An Act for the general quiet of the Subject against all pretence of Concealment whatsoever” (*g*). The dignitaries, thus shielded from spoliation, felt eminently grateful to the advocate whose arguments had so fully disappointed their adversaries; they sent him in consequence an ample testimonial of their consideration and of his services under their common seal, a copy of which is below given to the reader (*h*). On account of this and other signs of attachment which he displayed towards the church, he is said to have been traduced as a back friend to

(*f*) Coke's Reports, part. iii. p. 76.

(*g*) Coke's Institutes, part iv. p. 257.

(*h*) Edwardus Coke, Armiger, sæpius et in multis difficilimis negotiis ecclesiæ nostræ auxiliatus est, et nuper eandem contra templorum helluones, qui dominia, maneria et hæreditamenta nostra devorare sub titulo obscuro conati sunt (Concealatum dicunt) sponte suâ nobis inæciis et sine mercede ullâ legitimè tutatus est, atque eandem suam nostri defensionem, in perpetuam tantæ rei memoriam, et posterorum gratiâ

(ai)

the church and clergy (i), that is, to have served them at the expense of conscience and duty. But this imputation has been declared groundless (k), and the slander might be traced more probably to some of those whose ambitious designs he had interrupted, than warranted by any undue favour on his part; for it is highly reasonable to suppose, that the representative of a county, bred up in the bosom of it as he was, had not contemplated with indifference the various properties of his constituents; and that when

(i) Fuller's Worthies, by Nichols, vol. ii. p. 129. Lloyd's Worthies, vol. ii. p. 110, by Whitworth.

(k) Fuller, p. 129.

(si opus fuerit) magnâ cum industriâ et scriptis redegit, et nostræ ecclesiæ donavit * †.

Translation.—Edward Coke, Esquire, has succoured our church more than once under circumstances the most trying, and has lately protected it, of his own accord, with effect and without remuneration, from those devourers of sacred things, who would have swallowed up our manors and inheritances unawares, under the hidden title of Concealers. He has, with great labour, committed this defence of us to writing, and presented it to our church, in perpetual remembrance of so great an action, and, if there were any need of it, for the benefit of our posterity.

* In the Biog. Brit. the last sentence is written, et sub sigil. ecclesiæ nostræ donavit; but the former is preferable, because it was not likely that Sir Edward Coke would present the Deart and Chapter with his defence of them under his seal.

† Lloyd's Worthies, vol. ii. p. 110. Fuller's Worthies, by Nichols, vol. ii. p. 129; but it is not given so correctly as in Lloyd.

he foresaw the approach of an unhallowed act of plunder, he would throw all his powerful energies in the foreground for the purpose of arresting it. And it is a crowning testimony to his memory, that when he was far advanced in life, and shorn of all his judicial honours, on the application of a certain peer for the lands which belonged to the Norwich ecclesiastics, and which he had settled with so much industry and caution, he called upon that nobleman, with much resolution, to desist from his attempt, declaring, that if he proceeded he would put on his gown and cap, and come into Westminster Hall once again, and plead there in any court in justification of what he had done (*k*).

In 1596, 38 Eliz. he filled the office of Treasurer of the Inner Temple, which was his Inn (*l*).

Hitherto we have beheld a man progressively rising by the most consummate industry, prudence, and fortune, to the chief honours of an advocate; it is now the biographer's painful duty to cease the constant and unqualified praise which has accompanied the indefatigable student and acute pleader, to distinguish

(*k*) Lloyd's State Worthies, by Whitworth, vol. ii. p. 114.

(*l*) Dugd. Orig. Jur. p. 170.

between the life of struggling exertion and the life of acquired power. When we read the history of Lord Bacon, and view his career brightened by all the glories of intelligence and science, the mind is prone to expect a proportional liberality and candour from such a man; but when we trace the years of Sir Edward, bred up in the dry disquisitions and intricate perplexities of the common law, it is fair to attribute some share of his failings to the ineteracy of confined habits, and not to the malignities of an unchristian disposition. Still, if we find him triumphing with ungainly warmth over the brave and the unfortunate, if his accession to authority showed forth the petulance of an ungracious temper, if while his genius shone in the expounding of our laws he forgot the moderation due to the illustrious men whom he accused, he who writes his memoir, or reads the narrative of his conduct, must of necessity allow that he wanted that noble gentleness which, in spite of his close habits, should have influenced him on such memorable occasions, which, while it magnifies the virtue of the prosecutor, loads the culprit, if guilty, with double obloquy.

We come now to describe the conduct of the Attorney-General towards the unfortunate

Earl of Essex; and yet, should we find that he exercised an overbearing and intolerant spirit against that nobleman, history will show that the advocate was not actuated in this instance solely by a desire to insult the fallen, but in a great measure by the severe remembrances of ancient animosity. For we have a testimony from the Sidney Papers, that Coke had endeavoured unsuccessfully, as it seems, to deprive the Earl of Northumberland of the jointure which Sir Thomas Perrot, his wife's former husband, had settled upon her. The lady was sister to Lord Essex, and this proceeding had created much vexation and anger in the mind of the favourite (*m*). However, sometime afterwards, a courtier, the Earl's intimate friend, sought to effect a reconciliation between the offending and offended parties, probably at the request of Sir Edward, who made some concession; but in consequence of Bacon's remonstrances, and of his awakening the memory of former passions, one would presume that the projected arrangement never took place. He declared, that to forgive the attorney would, besides giving offence to the Earl's brother-in-law, not a little scandalize not only the nobility

(*m*) Sidney Papers, by Collins, vol. ii. p. 35. Birch's Memoirs, vol. ii. p. 291.

and gentry, but the whole world, who had no hope of redressing Coke's intolerable insolence but by his lordship's authority and wisdom (*n*). An impartial examiner, who views these circumstances as connected with the peculiar feelings of the time, though he could never assent to undue triumph or misplaced sarcasm, will be aware, that to disturb the progress of a man who was rising with all imaginable rapidity into the best graces of his sovereign, would in those days have provoked no little spleen and malice: he will make an allowance, on the one hand, for the great aristocratic pride of our nation at that time; on the other, for the unwonted inflexibility of the King's Advocate. Whoever ponders on the character of Coke as hereafter developed, and on the unchecked fortunes of Essex, might reasonably entertain an opinion, that the great lawyer had a conscientious sternness in sustaining rights entrusted to his protection, and that the favourite expected a compliance or forbearance not exactly consistent with those rules of rectitude at present professed and acted upon.

Be this as it may, when that nobleman was brought before commissioners at York House to

(*n*) Birch, p. 291.

explain his conduct as viceroy of Ireland, the Attorney-General, whose province it was to enlarge upon the accusations which had been briefly introduced by her Majesty's sergeants, expressed himself with much bitterness and severity, and closed a speech in which every error of the deputy was extended to the fullest, with a recommendation that his punishment should be the loss of goods, lands, and chattels, with the pains of perpetual imprisonment (o). It is well known that the decree of the commissioners was for a much lighter infliction.

In the February following the Earls of Essex and Southampton were brought before their peers in Westminster Hall, to answer the charges of treason alleged against them, and the principal responsibility of the prosecution was sustained on that occasion by the Attorney-General. He has been well commended by some writers for omitting the usual and constant allusions to ancient histories and the laws of old commonwealths, which were habitual to speakers of his day, he confined himself to facts recorded in the annals of his own country, and to the expounding of English laws. He divided his speech

(o) Birch's Memoirs, vol. ii. p. 449.

into four parts : the first expressed the quality of the crime charged, which was high treason ; the next the manner of it, which he represented as malignant and aggravated ; he then unfolded the circumstances of the case ; and lastly, pointed out the particular share which Lord Essex took in the transaction. In the course of this address he enumerated the vast favours and promotions which had been heaped upon the Earl, and, amongst other severe remarks, observed, " That it was at one time the purpose of that nobleman to call a parliament for the decision of matters ; but that now, in God's just judgment, he of his earldom should be Robert the last, that of a kingdom thought to be Robert the first." This unfortunate sally drew upon him the imputation of malignant abuse, and aroused the warmest censures of annalists and historians ; yet the impartial biographer and the unbiased critic will rather attribute this imprudent observation to the superfluous pedantry which was then so common, and to which there was not any one more addicted than Lord Coke himself. If it were uttered now, the liberality of the times would condemn the Advocate, as sinning against the light which has been shed so abundantly around him ; but while other lawyers, who made a parade of learning which they drew from Ro-

man histories, remain unnoticed and unblamed, it is too much to comment upon an apposite remark of this kind (for it was certainly conceived with much point) with unqualified severity. Whoever reads attentively the concluding passages of the speech as given in the State Trials, will be satisfied that the mind of the orator was firmly impressed with the conviction, that Essex had assembled a tumultuous company in the city, and that, on being commanded by the privy counsellors on his allegiance to disband his force, he had not only refused obedience to the mandate, but placed the advisers in a state of considerable jeopardy (*o*). It is clear also, that the Earls were much alarmed and disturbed by the perspicuous statement of evidence which had been disclosed; for no sooner had the Attorney finished his address, than Essex intreated leave to defend himself, and declared that Coke had played the orator, and abused the ear of the court with slanders (*p*); and Southampton, after hearing a repetition of Lord Rutland's examination from the King's Advocate, which was, that he, Southampton, had been closely confederated with the conspirators, exclaimed, " Mr. Attorney, you have urged the matter

(*o*) State Trials, in fol. vol. i. p. 199.

(*p*) Id. 199. Biog. Brit. tit. Coke, Str Edw.

very far, and you wrong me therein ; my blood be upon your head (*q*).”

It must be remarked, although we are not here discussing the guilt or innocence of those noblemen, that the developement of their misdeeds in proof was so strong as to produce an unanimous verdict against them ; and that they were sufficiently sensible of this impression to admit, by an ingenuous confession, that they had violated the law (*r*). So that, whatever charges of illiberality or impetuosity may have been showered upon Sir Edward, he had, beyond a doubt, formed a correct judgment on his case, and the ends of justice were manifestly attained.

Camden relates, that on Southampton's making an inquiry of the Advocate, asking, What he thought, in his conscience, they did agree to do with the Queen? he replied, “ The same that Henry of Lancaster did against Richard the Second. He approached the king as a supplicant, pretending no other plea than the removal of his evil counsellors ; but having brought the king under his power, despoiled

(*q*) State Trials, vol. i. p. 206.

(*r*) See State Trials, in fol. vol. i. p. 207, 208. Camden's Annals, pp. 235, 236.

him of his crown and life (s).” The last words that we shall quote on the subject are those of the Scottish monarch, Queen Elizabeth’s successor, who declared, that whoever should say Essex died not for treason was punishable; so that, as an author of his life observes, Coke not only kept his own notions, but prevailed on King James to change his; for, it is said, he once considered Essex as a martyr (t).

It is the opinion of the editor of *Biographia Britannica*, that this great man, towards the close of Elizabeth’s reign, was consulted by ministers in all points of difficulty; that he never failed to give them legal colours for all their proceedings; but that he was respected by the people as a cautious and guarded lawyer (u). This conjecture is highly probable, not that we have any distinct evidence of such constant and effectual interference; but it is certainly a matter of likelihood, and, perhaps, at the time, of much notoriety, that when such men as Essex or Southampton were either censured in the Star Chamber, or arraigned for their lives at Westminster, no person connected

(s) *Camdeni Annales*, vol. ii. p. 232.

(t) See *Biog. Brit. tit. Coke, Sir Edw. State Trials*, in fol. vol. i. p. 224.

(u) *Biog. Brit. tit. Coke, Sir Edw.*

with the Queen's government would be consulted with more earnestness than the Attorney-General, and the counsel of none hearkened to with more consideration. The authorities of Stow, Saunderson and Wilson, which are referred to in the book mentioned above, do not, however, sustain the assertion that Mr. Coke was on the best terms with Sir Robert Cecil and the ministers, and yet nothing is more probable (x).

On the 22d of May 1603, having obtained a new patent for the office of Attorney-General in April (y), he received the honour of knighthood from King James, who was holding his court at Greenwich in great splendour (z).

It would, indeed, be gratifying if we could pass over the next scene in which this eminent person made himself conspicuous: in the trial to which the reader's attention is now pointed, it must be owned, even by his most earnest or acute apologist, that at the least he was betrayed into an indiscreet and ungainly asperity, if he did not too plainly manifest an absolute want of christian temper and forbearance.

(x) See Saunderson's Life of James I. Wilson's Hist. of Great Britain, being a life of James I. Stow's Annals.

(y) April 22. Dug. Ch. Ser. p. 101.

(z) Stow's Annals, p. 824.

The polished, the learned, the enterprising Raleigh was brought before commissioners at Winchester, in November, to answer the united accusations of treason and sedition, and the principal features of the charge were exhibited by the Attorney-General: his speech to the jury was pedantic and irritating, his interruptions during the prisoner's defence constant and impatient, his abuse of the calumniated hero coarse and virulent (*a*). There is also much reason to fear that these impetuous sallies not a little contributed to influence the verdict against Sir Walter; and as the world is now, as far as can be, persuaded of his innocence, the untimely zeal of one, who ought to have been the minister, not the executioner of justice, can never be sufficiently reprobated. To support these censures the abundant authorities of historians and biographers can be adduced; they agree in an universal condemnation of his conviction, and of the chief agent who procured it, without offering one palliating argument in his favour (*b*).

(*a*) See State Trials, vol. i. p. 211. Arraignment and Conviction of Sir W. Raleigh, copied by Sir Thomas Overbury, 1648. Trial of Sir W. Raleigh, 1719.

(*b*) Lives, English and Foreign, vol. i. p. 124, ed. 1704. Guthrie's Hist. of England, vol. iv. p. 629. Carte's Hist. of England, vol. iii. p. 720. Hume, vol. vi. p. 10. Hist. of

Before however we finally assent to these unqualified reproaches, for it must be confessed that they are conceived in the utmost bitterness of language, it will not be unfair to notice the seeming state of Lord Coke's mind at the trial.

It will be recollected by all who are acquainted with the last fortunes of Essex, that Sir Walter Raleigh was present at his execution; and that authors are not wanting who have declared, that his advance to the scaffold was for the purpose of feasting his eyes with the death of his enemy (c). Probable, it is certainly, that he desired the execution of that nobleman (d); but when the Earl came to die, it is worthy of remark that he anxiously wished to have seen and spoken with Sir Walter, and that the latter having placed himself at hand, from a foresight of that expectation, repented afterwards of his retirement to a more distant station (e). Still, the most ungenerous and unchristian spirit was attributed to Raleigh on this occasion, and Coke amongst others was beyond doubt affected with

the House of Stuart, p. 18. Oldys' Life of Raleigh, p. clvii. Birch's Life of Raleigh, p. lviii. Theobald's Memoirs of Raleigh, p. 15. Pref. to State Trials, in 6 vols. fol. p. iii.

(c) Campbell, vol. ii. p. 136.

(d) See Campbell's Lives of the Admirals, by Yorke, vol. ii. p. 136, citing some MSS.

(e) Ibid.

this impression. It was, therefore, with a feeling of disgust that he said, "Thou wast by at his death, (meaning that of Essex,)

"Et lupus et turpes instant morientibus ursæ (f)."

He only echoed, though in a wrong place, and on an ill-chosen opportunity, the sentiments of the English people. It must also be remembered, that Raleigh had been instrumental in despoiling the lands of the church, and that, consequently, Coke, her stern advocate and defender, might have been irritated against him on that behalf. Again, it is perfectly reasonable to suppose that the Attorney was convinced of the story which had been vamped up against the prisoner through the timorousness of Lord Cobham. This person finding himself in danger from the discovery of a double intrigue, which he had been carrying on with his brother George Brooke and the Duke of Aremberg, and provoked by the information which Raleigh had given of his abode, and which led to his apprehension, determined to accuse him as a principal instigator of the plot. In reality, the words which Brooke had uttered regarding Sir Walter's participation in the popish plot, were denied by him when he ascended the scaffold; and Lord Cecil, whose hostility to

(f) State Trials, in fol. vol. i. p. 224.

the knight is well known, commended Brooke for his compunction (*g*). It has been said, that the Advocate having retired into a garden to take some air, exclaimed, on word being brought him that Raleigh had been found guilty of treason, "Surely thou art mistaken, for I myself accused him but of misprision of treason;" and Oldys, who gives this fable, says, that his author pledged his word as a Christian, that his authority was Sir Edward's own mouth (*h*). But Dr. Birch justly observes, that this effusion is not reconcileable with the proceeding on the trial, where the most strenuous endeavours were employed to sustain the indictment, and the most violent abuse of traitors interspersed with the supposed proofs (*i*).

Respecting the law of the case, it cannot be allowed that so able a man as Coke could plead ignorance of the criminal jurisprudence of his country. Such an extenuation cannot be admitted in his favour. When, therefore, it is found, that a chief justice (*k*) lays down for law,

(*g*) Winwood's Memorials, vol. ii. p. 8; and see Campbell's Lives, *ut supra*, pp. 143, 144.

(*h*) Oldys, p. CLVII, citing Osborne's Memoirs of King James, vol. ii. p. 108.

(*i*) Birch's Life of Raleigh, p. LVIII.

(*k*) Sir John Popham. The same was said by Judge Gawdy.

that the witness need not be confronted with the culprit in matters of treason, and declares that statutes which require two witnesses for the conviction of a traitor had been repealed, merely because they had not been enforced in the arbitrary reigns which preceded his administration of justice, and that the chief advocate felt himself indebted to that opinion for the validity of his testimony (*l*), this conclusion, however unfavorable, must be drawn, that the prisoner received judgment of death contrary to the principles of law, which the king's counsel professed and knew.

The unceasing violence and interruption to which Sir Walter was subjected during his trial has already been stated; it is, however, fitting that we should notice a passage from Saunderson, where, on the Attorney opposing the production of Cobham's answer to Raleigh touching the accusation, Lord Cecil is made to say to him, "Sir, you are more peremptory than honest, came you hither to direct us?" (*m*) This sally is not given as in the State Trials, where the words are, "Good Mr. Attorney, be not so

(*l*) See Carte's History of England, vol. iii. p. 721, n. 3. Hawles's Magistracy and Government of England Vindicated, fol. ed. 1689, p. 35. Birch's Life, p. 59.

(*m*) Saunderson's Reign and Death of King James, p. 287.

impatient, give him leave to speak," on which the counsel sat down, and refused to speak again, until he was entreated earnestly by the commissioners (*n*). It must be confessed, that the latter account wears the strongest garb of probability, since the uniform conduct of the judges towards Sir Edward betokens the highest respect in every other passage; but in the arraignment, &c. copied by Sir Thomas Overbury; the same words are handed down to us (*o*).

"If we are to believe an observation of Lord Cecil at the trial, there were great heats on both sides: " Excepting your faults, I call them no worse, by God, I am your friend. The heat and passion in you, and the attorney's zeal in the King's service, makes me speak this(*p*)". But united testimony shows, that Cecil was eagerly bent on the destruction of the eminent person on whom he sat as judge; since on the other hand, we have an authority for declaring that " Raleigh answered with that temper, wit, learning, courage and judgment, that saving it went with the hazard of his life, it was the

(*n*) State Trials, in fol. vol. i. p. 223.

(*o*). Arraignment of Sir W. Raleigh, copied by Sir T. Overbury, Lond. 1648.

(*p*) State Trials, vol. i. p. 222.

happiest day he ever spent (q).” In the Arraignment, &c. many warm expressions and furious gestures (r) are attributed to Sir Walter, so that it is likely that he grew warm as his case proceeded, and the advocate’s scurrility increased; for what can be more consistent with probability, than to suppose that a man of talent and courage, who conceived himself wronged by a base and worthless friend, finding that the barriers of courtesy and law had been broken down by those whose rank and office it was to maintain them, should rouse up and give vent to those emotions which are the offspring of a great spirit, unconscious of stratagem or dishonour?

But this warmth on the part of Coke was not levelled against Raleigh alone, for we are told that he raised the anger of the Spanish ambassador by saying, “That he had proof enough to condemn Aremberg, if he could be tried in England (s);” and that, on a complaint being tendered, he was obliged to qualify his

(q) Sir Dudley Carleton’s Letter to Mr. J. Chamberlain, Nov. 27th, 1603, cited in Carte’s Hist. of England, p. 720.

(r) Arraignment, p. 15, *et seq.*

(s) Carte’s Hist. of England, vol. iii. p. 721. n. 3, citing Beaumont, Dep. Aug. 20; Dec. 6, 10, 18.

expressions, and make an apology for them on Cobham's trial (*t*).

Had the impartial censure of posterity been the only evil which awaited this great man, he might not perhaps have anticipated a sentence so distant, and so have remained flushed with his triumphs, and satiated with his fortunes. But Raleigh had friends, and these became the Attorney's most severe enemies : men of thought and compassion held his conduct hateful, and withheld their good offices ; and there is good reason to believe that many persons who, before this incident, rejoiced at his elevation, were the more joyed at the approach of his downfall. Thus Sir Francis Bacon writes, in his exhortatory letter : " As in your pleadings you were wont to insult over misery, and to inveigh bitterly at the persons, which bred you many enemies, whose poison yet swelleth, and the effects now appear," &c. (*u*) ; and in another part, " For friends, although your lordship be scant, yet I hope you are not altogether destitute (*x*)." .

He was in Shakspeare's mind, according to

(*t*) Carte's Hist. of England, vol. iii. p. 721. n. 3, citing Beaumont, Dep. Aug. 20 ; Dec. 6, 10, 18.

(*u*) Bacon's Works, 8vo. in 10 vols. Lond. 1619, vol. v. p. 406.

(*x*) Id. p. 411.

Theobald, when he makes Sir Toby advise his friend to send a bitter challenge, in the comedy of Twelfth Night, or What you Will; the words are,—“Go, write it in a martial hand; be curst and brief; it is no matter how witty, so it be eloquent and full of invention: taunt him with the licence of ink: if thou thou’st him some thrice, it shall not be amiss; and as many lies as will lie in thy sheet of paper, although the sheet were big enough for the bed of Ware in England, set ’em down; go, about it. Let there be gall enough in thy ink; though thou write with a goose-pen, no matter: about it.” The commentator refers particularly to the three thous, as applicable to the accusation given in the State Trials: “All that he did was by thy instigation, thou viper! for I thou thee, thou traitor!(y)” And he adds, that the scribbling with a goose-pen was a keener lash at the Attorney for a fool, than all the contumelies thrown at the prisoner as a supposed traitor(z). Steevens gives Dr. Farmer’s authority for saying that the poet might have had an aggravating inducement to this satire, from the contemptuous manner with which Lord Coke spoke of players, and the readiness which he

(y) State Trials, in fol. vol. i. p. 216.

(z) Theobald’s Shakspeare, 1733, vol. ii. p. 503. n. 13.

showed to treat them with severity and disgrace, as vagrants. To prove this, a sentence or two are cited from a charge which he delivered at Norwich, and which we give to the reader:—

“ Because I must haste unto an end, I will request that you will carefully put in execution the statute against vagrants; since the making whereof, I have found fewer thieves, and the gaol less pestered than before. The abuse of stage-players, wherewith I find the country much troubled, may easily be reformed, they having no commission to play in any place without leave; and, therefore, if by your willingness they be not entertained, you may soon be rid of them(*a*).” Reed admits the likelihood of Theobald’s conjecture, but refers us to the practice which certainly prevailed, of abusing and reviling performers, on the part both of prosecutors and judges, before the time of Sir Edward Coke(*b*). But Sir Toby’s words, “ no matter how witty, so it be eloquent and full of invention,” were a harmless satire, if applied to the speeches of ancient lawyers; it was reserved for the able person we have just mentioned, to introduce a strength of language

(*a*) Boswell’s Shakspeare, Lond. 1821, vol. xi. pp. 442, 443. Citing his speech and charge at Norwich. Nath. Butler, 4to. 1607.

(*b*) Ibid. p. 443.

before his day unknown to the profession of the law, to course along in a flow of eloquence which was astonishing, because strange and unwonted, and, unhappily perhaps, to blend together a treasure of falsehoods, from an indiscreet zeal for his master's service, or, which is more probable, an undue faith in the statements which were forced upon his notice.

Two years after Raleigh's conviction, the attention of the whole kingdom was drawn to the unparalleled story of the Gunpowder Treason, and, according to his official duty, the Attorney-General lent his powerful assistance in developing the conspiracy. The persons implicated were examined with care, and we are informed that the investigation lasted for twenty-three days (c), during which time, as

(c) *Hist. of the Gunpowder Treason, Lond. 1681, p. 18.*

The Editor of the *Biog. Brit.* has informed us, that Coke made this statement at the trial of Sir Everard Digby, and he gives as his authority,—*Hist. of the Powder Plot, and the Proceedings against Sir Everard Digby and his Accomplices*, p. 21.—but I have been unable, notwithstanding some research and diligent inquiry, to find that book. There can scarcely be a question, but that Sir Everard was identified with the other conspirators in the text referred to; yet, when we look to the *State Trials*, and to the pamphlet on the Gunpowder Treason, published in 1679, we find that on the arraignment of Sir E. Digby, who pleaded guilty, Sir E. Coke, (it being nearly dark), made a very short speech, and that he

appears from his subscription to the confessions and declarations of the parties who were questioned, the King's Advocate was actively engaged (*d*); and himself tells us, in his speech against the united conspirators, that such a number of days had been consumed upon interrogatories (*e*); and again, in his opening address at Garnet's trial, that the Commissioners of the Privy Council had interrogated that jesuit above twenty times between the 13th of February and the 26th of March (*f*). At length, on the 27th of January 1605 (*g*), Winter and his associates were arraigned at Westminster, and having pleaded not guilty, were put

did not allude in the slightest way to the length of time which had been expended on interrogatories.—See *State Trials* in fol. vol. i. pp. 244, 245. *Gunpowder Treason*, p. 128, *cf seq.*

(*d*) *The Gunpowder Treason, with a Discourse on the manner of its Discovery*, Lond. 1679, pp. 44. 60.

(*e*) *State Trials*, vol. i. p. 235. *The Gunpowder Treason*, p. 88.

(*f*) *State Trials*, vol. i. p. 249. *The Gunpowder Treason*, p. 149.

(*g*) There appears to be a mistake in the *Biog. Brit.* where the month of June is substituted for that of January, and reference made to the *Hist. of the Powder Treason*, p. 39, which is not borne out by any authority of such a nature that I have been able to find, and is at variance with the *State Trials* and other memorials. *State Trials*, vol. i. p. 231. *Hist. of the Powder Treason*, Lond. 1681, p. 25.

upon their trial. On this occasion, after some prefatory remarks to the jury on the heinousness of the offence, and the general law of treason, with a reflection on the monstrous parentage of the present crimes, as having arisen from the ashes of former plots, Coke proceeded to describe the progress of the mischief; after which he observed upon the persons by whom the deed was to have been perpetrated, those against whom it was intended, the time, place, means, purpose and contrivances of the culprits, and on the admirable discovery of the whole. He then introduced some fanciful remarks on the plot generally, which would in these days be omitted, as savouring of pedantry; and lastly, drew a comparison between the treason of the jesuits, who had stirred up the prisoners to the commission of their offence, that of the seminary priests, and, what he was pleased to call, that of Raleigh and others (*h*). So that it seems his conviction of Raleigh's guilt had been firmly established and was unchanged. After he had finished his able harangue, in a part of which he unravelled historically the secret machinations and connivances of the jesuits, the examinations and con-

(*h*) See State Trials, vol. i. pp. 235, *et seq.* Gunpowder Treason, Lond. 1679. p. 87, &c.

fessions of the accused parties were read, on which a verdict of guilty was pronounced (g). He delivered another short address to the court on the confession of Sir Everard Digby (h); and throughout the affair seems to have conducted himself with more temperance, to have displayed more learning, and to have commanded more attention than on former trials, when he indulged in so much raillery and ill-manner. He had an opportunity of acquiring further distinction and fame at the trial of Garnet, the superior of the jesuits in England, of which he amply availed himself. This person was a main promoter of the Gunpowder Plot, and Coke went over the scenes of his connexion with the murderous fraternity engaged with him with much clearness and precision, so that the Earl of Salisbury declared he had never heard such a mass of matter better contracted, nor made more intelligible to a jury (i). Complete success attended all his endeavours on behalf of the Crown in these instances, all

(g) State Trials, vol. i. p. 243. Gunpowder Treason, p. 124.

(h) State Trials, vol. i. p. 244. Gunpowder Treason, p. 126.

(i) State Trials, vol. i. p. 259. Gunpowder Treason, p. 191.

the prisoners charged by him being convicted and executed. But the condemnation of Garnet was not the sole aim of his observations on the trial we have just mentioned, he laboured, and with success, to show how dangerous a community had set foot in England in the persons of the jesuits, how constant and unbending their treasonable purposes had continued, how they had sinned against the clemency of the King's pardon which had passed in the beginning of his reign for the absolution of all treasons, how combined was their confederacy, how absolute their dominion over the minds of those they converted.

It was with success that these topics were urged, since the order was expelled from England, by proclamation, about this time; and so decided a measure may be doubtless attributed, in part, to the ability and sagacity with which Sir Edward had unmasked their devices, and exposed their hostilities to his Sovereign. Posterity will bear testimony likewise that his estimation of them was correct. In the notorious instance before us, when some of the confederates were startled at the idea of massacring Catholics with Protestants, Tesmond, a jesuit, and Garnet, removed their scruples by saying, that on an emergency so great the innocent

must suffer with the guilty (m). Coke's speech was also remarkable for the five famous D.D.'s, which were attributed to Garnet, as, doctor of dissimulation, deposing of princes, disposing of kingdoms, daunting and deterring of subjects, and destruction (n); and is by some considered to be Sir Edward's masterpiece (o).

It has been asserted, that the Chief Justiceship of the Common Pleas was bestowed upon him for his arduous services in unravelling the dark treasons of those days (p); but unless some unquestioned authority can be found to that effect, it may be doubted whether his promotion was even hastened by those transactions. It had been the custom for many years then past to advance the person who held the office of attorney-general to high judicial seats: Gerrard and Egerton had become Masters of the Rolls, and Popham Chief Justice of England, in the reign preceding; it was, therefore, natural that he should expect, on the death of Sir Francis Gawdy, to be rewarded for the ministerial labours he had rendered. Accordingly, on the

(m) Hume's Hist. of England, vol. vi. p. 32.

(n) State Trials, vol. i. p. 255.

(o) Biog. Brit. tit. Coke, Sir Edw.

(p) Biog. Brit. tit. Coke, Sir Edw.

the 30th (y) of June 1606, without sollicitation, he gave rings, with the motto, "*Lex est tutissima cassis (r)*," was sworn a serjeant (s), and on the same day took his seat as prime Judge in the Common Pleas, and on the next day commenced his duties at Westminster, attended by all the Society of the Inner-Temple (t). The ceremony of returning in the party-coloured robes of a serjeant from Serjeant's-Inn to Westminster, seems to have been dispensed with in his case; for when Sir Henry Yelverton, on his promotion, requested the like privilege, the Judges resolved that the precedent of Sir E. Coke was not to be followed, and that it would not be convenient that new serjeants should omit any of the customary solemnities (u).

There cannot be a doubt but that the hostility

(g) In the Biog. Brit. his promotion to the Bench is fixed on the 30th of June, but this is a mistake. See Croke's Reports, vol. ii. p. 125.

(f) The law is the safest helmet. Fuller's Worthies, p. 251.

(s) Coke observed once at a serjeant's feast, that the coif was like Minerva's helmet, the goddess of counsel; he likened the four corners of the cap to science, experience, observation and recordation. Remington on the Statutes, p. 453.

(t) Croke's Reports, vol. ii. p. 125.

(u) Id. vol. iii. Introd. p. vii.

which subsisted between the Chief Justice and Bacon had prompted those unfavourable statements and silent discredits, which retarded the latter in his advancement. On this occasion, when Sir Henry Hobart became Attorney-General, Sir Francis felt himself highly aggrieved, and wrote a letter of severe expostulation to the new Judge. It manifests so much nerve and clearness of expression, that we purpose to give it entire, remarking at the same time how plainly he insinuated his willingness to have joined his interests with those of the late Attorney:—

“ Mr. Attorney,—I thought best, once for all, to let you know, in plainness, what I find of you, and what you shall find of me. You take to yourself liberty to disgrace and disable my law, my experience, my discretion. What it pleaseth you, I pray, think of me: I am one that knows both mine own wants and other men’s; and it may be, perchance, that mine mend, when others stand at a stay. And surely I may not endure, in public place, to be wronged without repelling the same to my best advantage to right myself. You are great, and therefore have the more enviers, which would be glad to have you paid at another’s cost. Since the time I missed the solicitor’s

place, the rather, I think, by your means, I cannot expect that you and I shall ever serve as attorney and solicitor together; but either to serve with another upon your remove, or to step into some other course, so as I am free (*x*) than ever I was from any occasion of unworthy conforming myself to you, more than general good manners, or your particular good usage shall provoke; and if you had not been shortsighted in your own fortune, as I think, you might have had more use of me: but that tide is passed. I write not this to shew my friends what a brave letter I have written to Mr. Attorney; I have none of those humours: but that I have written is to a good end, that is, to the more decent carriage of my master's service, and to our particular better understanding one of another. This letter, if it shall be answered by you in deed, and not in word, I suppose it will not be worse for us both; else it is but a few lines lost, which, for a much smaller matter, I would have adventured.—So this being to yourself, I, for my part, rest (*y*).”

From an attentive perusal of this letter, one must conclude that the remembrance of ancient

(*x*) *Quære*, freer.

(*y*) Bacon's Works, Lond. 1819, vol. v. p. 297. This letter is said to have been written before June 1606.

disappointments and animosities was still fresh in Bacon's mind, and that he had cherished some hope of a reconciliation with his fortunate adversary. But it may be also shrewdly suspected, that he anticipated the mischance of being again supplanted at the instance of Coke, if it had not been already effected, and that these combined reflections urged much of that bitterness which prevails throughout the letter (z).

(z) The Chief Justice Gawdy did not die until June 1606. and the letter just set out is said to have been written before June; it cannot, therefore, be at once admitted, that Sir Edward Coke had at that time the promise of the ensuing vacancy on the Bench. Such an event might have been contemplated on the expectation of Gawdy's approaching end, but was not, perhaps, a matter of certainty. Neither does it follow that Bacon's words, "to serve with another upon your remove," alluded to immediate promotion, although he might have foreseen the change; we are, therefore, at liberty to form our own conjectures on the views of the writer. And when the tenor of the whole letter has been duly considered, and the latter part especially examined with a careful attention, I confess there appears to be some ground for believing that Lord Bacon insinuated, notwithstanding his seeming independence, a wish to serve with Coke as Solicitor-General.

The passing carelessness with which the chance of reconciliation was abandoned, partakes much of that crafty policy which that great man resorted to for the purpose of securing his advancement; and it is not improbable that he hinted at the services he might have rendered the Chief Justice, in the hope of raising some interested feeling in his favour.

And although the writer succeeded shortly afterwards in his ambitious views, he failed in obtaining the post of attorney-general, which was bestowed upon Sir Henry Hobart.

Little mention can be made of the conduct and character of the new Chief Justice during the seven years which succeeded his first promotion; all accounts however agree, that he discharged his duties with the utmost impartiality and sufficiency (*a*). Indeed, the veneration with which posterity regard this great lawyer, induces the mind to conceive very highly of the ability with which he gave the rule in the Common Pleas, of the attention which was doubtless paid to his judgments, and of the acuteness which he exhibited in unravelling the nicest intricacies of pleading. The learned reader, who wishes to consult the opinions he delivered, is referred to the legal authorities of Sir George Croke, Mr. Justice Godbolt, and Mr. Brownlow, and to the Reports of the learned Judge himself (*b*). It will be reserved for a subsequent part of this Memoir to notice more

(*a*) See Biog. Brit. tit. Coke, Sir Edward. Chalmers's Biog. Dict. *in loco*.

(*b*) See Croke's Reports, vol. ii.; Coke's Reports; Godbolt's Reports; Brownlow's Reports.

particularly their excellence, and the estimation which is bestowed upon them by members of the profession to which he belonged.

But the share he took in the famous case of the *postnati* was an act too memorable to be passed over in silence. The resolution of the Court of Exchequer Chamber was, "That all the Scots born since his Majesty's possession of the Crown of England, were legally free denizens of the English nation." History has informed us of the jealousy which prompted our parliament vehemently to oppose an union with Scotland; we can trace the same feeling on this occasion, manifested as it was by strong resistance, and severe imputations, against the Judges whose decision we have just mentioned. Thus, it was said, that great efforts were employed to interest the Barons of the Exchequer in favour of the resolution; that Altham and Bromley were against it, but that Snigge and the Chief Baron, Sir Lawrence Tanfield, were persuaded to support it; that Tanfield had been an antagonist of Coke for a long time, but that in this instance their opinions coincided; that it was deemed necessary to obtain the sanction of Lord Ellesmere, and that the Commons were highly indignant at his espousing the cause of the

Scotch (c). Coke is also attacked for this decision by Wilson, who denounces him as metal fit for any stamp royal, and vents much spleen against the issue of the cause (d.) But the whole tenor of the life we are writing utterly refutes such a charge; the inflexibility of the Judge, which led at once to his downfall, relieves his memory from the influence of scandal and reproach, which are too often the bitter portion of great men (e).

Coke, moreover, had given offence to the King and his ministers, by adhering to the laws and constitution of his country in resisting a boundless prerogative, and this tenacity was indirectly the occasion of his fall (f).

The High Commission Court has been justly reprobated, as uniting the fullest measure of ecclesiastical severities with the utmost extent of regal prerogative; its dictates menaced the subject not only with fine and imprisonment,

(c) Traditional Memoires of the Raigne of King James, Lond. 1658, p. 101, *et seq.*

(d) Wilson's Life and Reign of King James, p. 41.

(e) See Coke's Reports, part vii. Calvin's case. Bacon's Works, Lond. 1819, vol. iv. p. 319.

(f) It was about this time that Judges were directed to go on the circuit through their own counties, and Coke is particularly mentioned for this purpose by Winwood. Memorials, vol. iii. p. 432.

but with the unconstitutional inflictions of the rack and other tortures (*g*). It is not surprising, therefore, that Englishmen beheld its active operation with a jealous and dissatisfied eye, or that an honest and penetrating lawyer should deprecate its censures, and restrain it within the letter of its enactments. No sooner then had the question as to the power of arrest by this jurisdiction been presented to the attention of the Court of Common Pleas, than it was determined by all those Judges that the statute of Elizabeth, which invested the obnoxious tribunal with its authority, gave no license to take the body of any subject upon surmise; that the commission did not alter the proceedings of the ecclesiastical law, and that the usual process of citation ought to have been enforced in the case before them (*h*). The affair remained quiet for three years after this determination, when Sir William Chancey had the misfortune to be committed to the Fleet, by virtue of a warrant from the High Commissioners, for adultery. He sued out a writ of *habeas corpus*, and was bailed, the King's sergent not venturing to defend the legality of the im-

(*g*) See Hume's Hist. of England, vol. ii. pp. 262, 263.

(*h*) Coke's Reports, part xii. p. 49; and see *id.* p. 19.

prisonment⁽ⁱ⁾; but this check of prerogative gave serious umbrage to the Crown, and was the forerunner of an important era in Sir Edward's life. Very shortly afterwards all the Judges were sent for, and Lord Coke defended the opinions of himself and his brethren, before the Privy Council, against the warm disputations of Abbot, the Archbishop of Canterbury, who complained of prohibitions to the High Commissioners, and the delivery of persons, whom they had committed, by *habeas corpus*; the result of which conference was, that another council was appointed, in hopes, as it may be presumed, that a difference of opinion might be created; but the Common Pleas adhered to their original decision, on which the Judges of the other courts were sent for more than once, and at length, after a command to Lord Coke and his brethren to retire, because they had contested with the King, and the most strenuous efforts by the Chancellor Egerton to influence the rest, on the delivery of their several opinions it appeared that they were by no means unanimous in favour of the Crown^(k). This was a fatal blow to the encroachments of unbounded authority, for a promise of reform

(i) Coke's Reports, part xii. p. 82.

(k) Id. pp. 84, 85, 86.

and moderation was immediately tendered by the King; and, in the language of the Lord Treasurer, the principal feather was plucked from the Commission, and in the next reign it was utterly abolished (*l*). It is needless to observe, that the nation was indebted to the unbending sternness of the Chief Justice, who had so far interested himself as to publish a treatise on the subject, for the first limit to a control which held the liberties of England awhile in a precarious and arbitrary balance (*m*).

But this was not the solitary instance of his inflexibility in maintaining the laws inviolate: he had been called upon by the King's ministers to sanction certain proclamations of the monarch, and to allow them the same force with Acts of Parliament. It was the wish of James to restrain the building of new houses in and about London, and to prohibit the making starch from wheat; and he proposed by the mere virtue of his proclamations, to suppress these practices, and, of course, to inflict penalties for any acts of disobedience to them; but so satisfactory was it to that timid Sovereign, as well to hold his Judges responsible for the measures

(*l*) Coke's Reports, part xii. p. 86.

(*m*) It was revived by James II. but dropped at the Restoration.

which he adopted, as to assure himself that they would second his designs, that, as on this occasion, he had very frequent recourse to their advice. As Coke was their oracle, he received a summons to attend the deliberations of the Chancellor and other ministerial officers, and although, when he urged that there was no precedent for their intended rigor, they laboured to persuade him that in such a case it would be well to leave the affair in the hands of his Majesty, aware that the law which gave validity to such proclamations had been repealed, he so strenuously required time to consult his fellows, that Sir Thomas Fleming, the other Chief Justice, Sir Lawrence Tanfield, the Chief Baron, and Mr. Baron Altham, were appointed to confer with him. Here again he prevailed; the resolution of this select committee was famous: They said, that the law of England was divided into three parts,—common law, statute law and custom; that the King's proclamation was not any one of those; and that, with regard to the creation of offences, it could not be done in the manner proposed, since there were only two kinds of mischiefs; the one, *malum in se*, against the common law; the other, *malum prohibitum*, against an act of the legislature (*n*). After-

(*n*) Coke's Reports, part xii. p. 74.

wards, when the King endeavoured afresh to extort an obedience to these emanations of his will, we find that discontents were raised in the Commons' House on account of them, and that they warmly remonstrated against their continuance (*o*).

Whoever has considered the history of a court governed by favourites, will allow, without difficulty, that the honesty and firmness which we have depicted, unmixed as it was with a persuasive suavity or courteous demeanor, would provoke the malice of secret enemies, and urge them to attempt the disgrace of the obnoxious patriot. It will be admitted too, that the ambitious flatterer is often found in the retinue of these favourites, ready at all times to advantage himself of their rising ascendancy, and to foster his own fortunes upon their successes, or the mischances of others. It is much to be lamented that the great Lord Bacon must be connected with these mean intrigues; he had long been the rival and adversary of Coke; he had long envied his talents and his virtues; and had repined, as it seems, at every turn of luck which failed in promoting his own aggrandizement. He was Solicitor-General when Chief Justice Fleming died, and, aware

(*o*) Hume's Hist. of England, vol. vi. p. 52.

that the advancement of the Attorney would open the door of his own elevation, for he had previously insinuated that Sir Edward was too resolute, and Hobart too pliant, he resolved so to recommend the filling of the vacant place as to ensure his own benefit, and he was the more able to effect this, since he fully possessed the confidence of Villiers, (who was then all powerful at court), and was, moreover, well esteemed by the King. There was, however, another inducement which urged him to interfere on this occasion, and this was the mortification of the person to whom he had been so long opposed. The office of Chief Justice of the King's Bench was in those days a slippery and precarious tenure, much open to temptation from court influence, and mainly unfit for a man who proposed to steer his course in close company with the laws which he professed to administer. Though of higher precedence, it was a place of less profit than the headship of the Common Pleas, and, according to the constitution of men's minds in those uncertain times, it was less an object of ambition to an Attorney-General than the latter. Bacon's endeavour, therefore, was to remove Lord Coke to the King's Bench, and he assigns reasons for such a step in a short memorial which he

drew up. He says, that Coke, on his promotion, (for such it really was), would think himself near a privy counsellor's place, and become obsequious, and that his removal to an office of less emolument would be very instrumental in impressing people with an idea that he had been in some measure punished for his opposition to the monarch's wishes (*p*). There is infinite craft in this representation: Coke, who was endowed with an abundant fortune, was to be honoured for the sake of commanding his services; abroad it was to be said that his fortune had been diminished for his insolence, a story likely to receive credit among most men, who believe the possession of money to be the chiefest good. Bacon would secure his ends in either case; he would be raised to the post which he coveted, and bear away the full flower of the regal prerogative. His advice had the due effect: on the 25th. of October 1613, the removal took place; Hobart was afterwards appointed to the vacant Chief Justiceship, and Sir Francis became Attorney General (*q*). Here, as in the Court of Common Pleas, he presided with great dignity and honour, and was considered, in the fullest sense, the prime

(*p*) Bacon's Works, Lond. 1819. vol. vi. p. 76.

(*q*) Dug. Chron. Ser. pp. 104, 105.

oracle of the law. His judgments in the new station he filled have been handed down to us by Mr. Sergeant Rolle, afterwards Chief Justice of the King's Bench, and Mr. Bulstrode, who was made a Welsh judge by the parliament.

On the 4th of November he was sworn of the Privy Council (r).

The Attorney-General (s) had now fully insinuated himself into the King's confidence; and, as in the zeal which he exercised for maintaining the power of royalty to the utmost, he found Lord Coke a formidable and determined adversary, so he omitted no occasion of embroiling so stern an advocate for strict law with the Sovereign, who at times would well have dispensed with such particularity. One Beacham had written a sermon, which was never intended for the pulpit or the press; it had been surreptitiously obtained from his study, and on examination some passages, then thought treasonable, were extracted from it. The first law-officer of the Crown thought fit to advise, that the opinions of the Judges of the King's Bench should be asked privately before a prosecution was set on foot; and he complained, that the first difficulty which presented

(r) *Camdeni Annales*, p. 9.

(s) Sir Francis Bacon.

itself was the decided hostility of Sir Edward. Particular and auricular taking of opinions, said that great man, were not according to the custom of the realm, and he thought that his brothers would never consent to the arrangement. But when the King's pressing commandment was urged, he was induced to appoint a conference with Mr. Attorney, and others of the King's counsel and sergeants attended the judges, Croke, Doderidge, and Houghton. It seems that these were persuaded to admit the correctness of the proceeding; but the Chief, although repeatedly and anxiously solicited, declaimed vehemently against it, pointed out the clear distinction which existed between cases wherein life was concerned and ordinary matters; and finally sent by the hands of Bacon certain rescripts to his Majesty, in which, we may conclude, he confirmed his disapprobation of the measure (†). And this inflexibility was certainly productive of a triumph; for when Owen's conduct in uttering traitorous speeches against King James came under the consideration of the council, they preferred sending the examinations and papers relating to the treason before the full assembly of the

(†) Bacon's Works, Lond. 1819, vol. ii. pp. 339. 343. 352, 353.

King's Bench Judges, notwithstanding an intimation from his Majesty that the demand of private opinions might be again resorted to with effect. Bacon gives a colour to this charge, by saying, that this last was a matter of greater ease, and free from any doubt; but it is not improbable, that he dared not again venture so far against the solemn opinion of the first Judge of the realm, and the firm principle of a constitution which that Judge so strenuously sustained on all emergencies (*u*). The high repute of the Chief Justice's counsel still continued; he was applied to in a case where the writ of *rege inconsulto* (*x*) was moved for (*y*); his propositions concerning the revenue were received with much attention and respect; and his science in law shone forth with the most eclipsing brightness (*z*). Considering the labour which he had devoted to the subject of finance, and the earnestness with which he pursued all inquiries relative to it, there is little doubt but that he would have been Lord Trea-

(*u*) Bacon's Works, *ut supra*, p. 351-2.

(*x*) The writ of *rege inconsulto* is sued for where a matter is in course of decision before the courts, in which the king's interest and title are concerned, and to which he has not been made a party.

(*y*) Bacon's Works, p. 369.

(*z*) *Ibid.*

surer, had not his rival, who now, in his time, had become pre-eminent at court, urged all possible topics to his prejudice. Amongst other aspersions, the Attorney in a letter to the King observed, that he found Lord Coke assenting with himself on the plans for improving the treasury; but added, that it was one thing to have the vapour of a thought, another to digest business aright (a). And this strain of depreciation was fully kept up, when the doctrine of Beneficences was established in the King's favour; after congratulating the Sovereign on this success, Bacon adds, that it had been desirable if Coke would have sooner pronounced that opinion (b).

Much more serious and no less successful was the attempt to lessen him, on the event of Lord Ellesmere's dangerous illness: the Attorney-General feared, and considering the immense legal talent of his rival his apprehension might have been amply grounded, that the Great Seal would fall into the hands of this most able lawyer; he therefore anticipated the good impression which these qualifications had produced, and pointed the King's attention to that side which he most of all dreaded, the diminution

(a) Bacon's Works, p. 369.

(b) Id. p. 361.

of his authority. The words made use of are too remarkable to be passed by. Of three formidable competitors, Coke is the first object of attack; and in the closing sentence, which relates to him, there is a distinct mention of his popularity: "If (the King is here addressed) you take my Lord Coke, this will follow: first, your Majesty shall put an over-ruling nature into an over-ruling place, which may breed an extreme; next, you shall blunt his industries, in matter of your finances, which seemeth to aim at another place; and lastly, popular men are no sure mounters for your Majesty's saddle (c)." Reasons are then assigned for rejecting Lord Hobart, or the Archbishop of Canterbury (d), from that high office. The next person, if not the first thought of, setting these apart, would most probably be himself (e). Lord Ellesmere recovered from the effects of that illness, and at the time of his resignation, which took place some time afterwards, Coke was more out of favour, and less venerated at court.

The affair of Sir Thomas Overbury must now occupy the reader's attention for awhile. With the various opinions, however, which distracted

(c) Bacon's Works, Lond. 1819, vol. v. p. 372.

(d) Abbot.

(e) Bacon's Works, Lond. 1819, vol. v. p. 372.

the public mind on the discovery of his murder, with the particular manner of his death, with the connivance or innocence of Somerset in the matter, we have no immediate concern ; it will be sufficient on this occasion to connect the behaviour and conduct of the Chief Justice with the narratives which exist on the subject, and, as far as he was implicated in those transactions, to detail them with care and minuteness. Certain it is, that he gave ample credit to the fatal conspiracy ; that he bent his acute attention and penetrating talents to the exposure of those who acted in it, and that the public mind is now convinced of the correctness of his judgment upon that event.

The death of Sir Thomas happened in 1613(*f*); the suspicion of his having suffered an untimely fate did not arise until two years afterwards. Various accounts have been delivered of the first light which broke in upon the affair; and one report amongst them stated, that the servant of the murdered person acquainted Sir Edward himself of his master's sufferings (*g*). But the most probable relation is that given by Sir Anthony Weldon, who, though he may be incorrect in some things, gives a fair and likely

(*f*) Truth brought to light by Time, p. 67.

(*g*) Coke's Detection, Lond. 1694, vol. i. p. 82.

history of this discovery. He tells us, that one Reeve, an apothecary's lad, who had composed, under his master's direction, some of the medicines which were so noxiously administered, ran away, or was sent abroad, through fear, and that he fell into company with some of the servants of the British agent at Brussels, to whom he recounted his share in the dark business. Trumball, the agent, having learnt the story from his domestics, wrote to Sir Ralph Winwood, who had succeeded Somerset as secretary, and thence a strict investigation proceeded (*h*). It is also highly worthy of credit, that Sir Gervase Ellways, the Lieutenant of the Tower, who was affected by these rumours, by his impatient anxiety to accuse Weston contributed not a little to draw on himself that degree of suspicion which led to his arraignment and execution (*i*). That activity which had inspired the great lawyer during the examination of the powder-plot conspirators had not forsaken him; he was more than ever diligent, inquiring and tenacious, and, in the progress of the scrutiny, took, as Lord Bacon relates, no less a number than three hundred testimonies (*k*).

(*h*) Weldon's Court and Character of King James, p. 94.

(*i*) Biog. Brit. vol. i. p. 387; vol. ii. p. 1383.

(*k*) Bacon's Works, Lond. 1819, vol. vi. p. 109.

Weston, the actual murderer, was first taken and brought before the chief justice, and resisted for a long time the language of persuasion and threats; but being softened by the exhortations of the Bishop of London, he revealed all, and pointed out the agents in the confederacy. These were now left at the mercy of Coke, who had arrived at the perfection of his legal proofs, and, as an historian of those times has written, "being a spirit of a fiery exhalation, as subtle as active, he left no stone unturned till he had ript up the very foundation (*l*)." On the 18th of October the Earl of Somerset was committed to the Dean of Westminster's custody (*m*).

There is some discrepancy between the accounts given us of Somerset's arrest: Mr. Roger Coke writes, that Overbury's murder was discovered in August; that the King was gone at the time to hunt at Royston, and that, on hearing the news, he posted away a messenger to the Chief Justice, with directions to get a warrant for the Earl's apprehension; he then relates the interview between the messenger and Sir Edward, the making the warrant, and the execution of it in the King's presence, in despite of Somerset's protestation. The Judge's visit

(*l*) Wilson's Life and Reign of King James, p. 81.

(*m*) Camd. Ann. Jac. p. 14.

to Royston is then described, and the curse which the King is said to have invoked on him, and his race if he spared any of the murderers, and on himself and his posterity if he pardoned one of them (*h*). Sir Anthony Welden says, that the Judges were sent for to Royston, where the King was, and adds the same story of the curses, and of the Earl's capture (*i*). And Mr. Wilson, an author of good authority, mentions the circumstance, but speaks of it merely as a rumour (*k*).

The first relation seems incorrect, since our great annalist, Camden, has testified to the fact of Somerset's arrest in October, and not August, as there stated (*l*). Both are probably in error concerning the actual apprehension of the Earl; for he declared on his trial, that when the warrant was sent, he was not commanded from court, as was pretended (*m*). And Welden's supposed summons to the judge is at variance with the authority of Lord Bacon, who, in a letter to the King, explains the reason of the visit to Royston, namely, to procure the

(*h*) Coke's Detection of the Court and State of England, 1636, pp. 82, 83, 84.

(*i*) Court and Character of King James, p. 102.

(*k*) Wilson's James I. p. 81.

(*l*) Camden. Ann. Jac. p. 14.

(*m*) State Trials, vol. i. p. 364.

royal authority for apprehending the murderers, and a joint commission for entering upon their examinations (*n*).

Most likely the affair happened thus : Coke went to Royston on Sir Ralph Winwood's information, and acquainted the King with the nefarious deed ; the King acknowledged the existence of reports on the subject, became incensed against the conspirators, and imprecated a curse if they should escape punishment ; he then granted the commission which was asked, and afterwards meeting with Somerset, parted affectionately from him (*o*), but with the full belief that, as soon as the Earl arrived in London, he would be placed under confinement, which accordingly took place (*p*).

Richard Weston came to his trial on the 19th of October, but refused to put himself upon his country, on which judgment of the *peine forte et dure* was passed upon him, and the court adjourned. However, four days afterwards he relented from his obstinacy, and

(*n*) Bacon's Works, Lond. 1819, vol. v. p. 381. And see Biog. Brit. tit. Coke, Sir Edward, pp. 1384, 1385, in the notes.

(*o*) See this fact in Court and Character of King James, p. 102. Coke's Detection, p. 83. Wilson's Life and Reign of King James, p. 81.

(*p*) Court and Character, &c. p. 104.

pleaded well, on which his conviction and death speedily followed (*q*).

Coke has been applauded for his judicious conduct in adjourning the court (*r*), but it is suggested that no other course could have been pursued; for the statute, which allows the same judgment in cases where the prisoner stands mute as would be given on his entering a plea, was not then in existence. This great man, it is to be lamented, must be censured in this instance for blending the eagerness of an advocate with the sternness of a judge: he was more than once remarkable for intemperate expressions; and even at the first trial he could not help observing, that Weston had been dealt with by some great ones, meaning by the Earl of Somerset, through Mr. Solicitor-General Yelverton, who was a steady friend of that nobleman (*s*). His next office was to pronounce the sentence of the court of Star Chamber on Sir John Hollis, Sir John Wentworth, and Mr. Lumsden, who undertook to examine Weston at the gallows. He could not abstain here from his favourite pedantry, but parodied the

(*q*) State Trials, vol. i. p. 323.

(*r*) Biog. Brit. p. 1383.

(*s*) State Trials, vol. i. p. 325.

old pastoral line thus : *Et quæ tanta fuit Tyburn-tibi causa videndi (t) ?*

Sir Francis Bacon, however, in his charge against these persons, paid him many high compliments, and stated absolutely, that never man's person and his place were better met in a business than my Lord Coke and my Lord Chief Justice in the cause of Overbury (*u*). But that great lawyer, although flattered by his formidable rival, knew well how to appreciate the caresses of a secret enemy ; he had foreseen that a storm would gather against him, yet, confident of the integrity of his purpose, and of the guilt of the accused persons, determined to adhere invincibly to the accomplishment of justice. It had, therefore, been his prudent policy to have the Lord Chancellor, the Duke of Lennox, and Lord Zouch united with him in a commission to investigate the whole affair (*x*), and Sir Francis expressly notes this as the wisest action of his life (*y*).

The next culprit who was punished for the murder above mentioned was Mrs. Turner, and although no very extraordinary circumstance.

(*t*) State Trials, vol. i. p. 338.

(*u*) Ibid. p. 335.

(*x*) Camd. Ann. Jac. p. 14.

(*y*) Bacon's Works, Lond. 1819, vol. v. p. 381 ; vol. vi. p. 109.

transpired at the trial, historians have recorded the bitter sally of her Judge, who branded her before the verdict as a participator in the seven deadly sins (*z*). On the trial of Franklin, Sir Anthony Welden makes some strange remarks, which, though they are not utterly without foundation, are not borne out by the facts to which he refers. His statement is, that Franklin confessed the murder of Overbury to have been effected by smothering, and that the Judge was perplexed as to the mode of sustaining an indictment for poisoning, when a death so different was given in evidence; and he adds, that the opinions of good lawyers were against the law as laid down by the court (*a*).

There is one serious difficulty in the way of our believing this history, which is, that no such confession of smothering was ever made by Franklin, who speaks only of poisoning in his examination; but it is possible that the learned Chief Justice might have said, that an indictment for poisoning would be good, so as the party died, although it should turn out in evidence that he fell by a poniard, &c. which opinion might well have been doubted by good

(*z*) Hume's Hist. of England, vol. vi. p. 77. State Trials, vol. i. p. 341.

(*a*) Court and Character, pp. 108, 109.

criminal advocates of those days, and would now be entirely rejected.

The case of Sir Thomas Monson, to which we now point attention, is the more worthy of remark, as it produced an unfortunate irritation in Sir Edward's mind, the result of which, as some have thought, though, as we shall see erroneously, led to his removal. Wilson declares, that on the trial of this person, Lord Coke gave vent to some rhetorical flourishes, which intimated that Overbury had received a measure of retaliation for his conduct to Prince Henry; that he was taken down by a court lure, and his wings clipt for ever afterwards (*b*). Welden says, that the course of the law was stopped by the folly of that great clerk, though no wise man, Sir Edward Coke, who exclaimed on the bench, "God knows what became of that sweet babe, Prince Henry, but I know somewhat?" on which the trial was laid aside (*c*). Mr. Osborne speaks somewhat mysteriously of this affair in his advice to his son: he says, "Avoid the folly of Acteon, that lost the shape of a courtier, by prying into the secrets religion taught him to worship, a humour Sir Edward Coke might have paid dearer

(*b*) Wilson's Life and Reign of King James, p. 89.

(*c*) Court and Character of King James, p. 123.

for, had he published the contents of the Earl of Somerset's letters, in a less merciful reign than King James's, of whose pardon the foulest faults tasted, yet became so highly irritated by this proud lawyer's indiscretion, as to remove his anger from the prisoner to the Judge, where it rested till death, &c. "A prince is easier reconciled to an enemy, who hath caused him to tremble, than to a subject who has it in his power to make him blush (d)."

Mr. Coke observes, that the removal of the Judge the next year gave reputation to those rumours (e). The experience of every day in our own times abundantly satisfies us that slanders against the great are propagated with industry, and credited with eagerness; it was therefore no wonder that imputations against an inflexible Judge should be scattered freely, or that they should find a place in the pages of such as loved the marvellous; who would be surprised then to find a statement from Sir Anthony in the book lately quoted, that Monson was compelled, through Coke's cruelty, to walk from the court in a hard rain, being in a state of infirm health? The only surprise which we could expect would be,

(d) Osborne's Works, Lond. 1673, p. 90.

(e) Coke's Detection, p. 84.

how a testimony of this kind came to receive the approbation of wise men. In our courts at this day, dignified as they are with every feeling of mercy and refinement, a person remanded to his custody might be conveyed thither under similar circumstances, without the slightest cognizance on the part of the Chief Justice.

Certain it is, however, that Sir Edward Coke was dissatisfied with the King's mandate to stay the proceedings; he imagined that Monson was as deeply imbrued with the crime as those who had suffered, and Sir Laurence Hyde, the counsel for the prosecution, declared that his proofs were to that effect (*f*). He, therefore said publicly, "I never knew the like favour, nor do I like it so well, but do declare it as a gentle proceeding from the King (*g*)."¹ With regard to the mysterious speeches so much relied on, there is no evidence of their authenticity; the vague reports which sustained them might possibly have arisen from the following sentence, which is put into the Chief Justice's mouth: "I dare not discover secrets, but though there was no house searched, yet such letters were produced, which made our deliverance as great as any that happened to the Children of

(*f*) State Trials, vol. i. p. 347.

(*g*) Ibid.

Israel (*h*).” And this exclamation referred, perhaps, to the intrigues of Northampton and Somerset with the Spaniards, which had been then newly discovered, and it must be not forgotten that Monson was Lord Northampton’s agent. The speaker, whatever might have been his joy at the development of those practices, thought that no ground had been afforded for postponing the investigation.

To clear up this part of the Memoir the ambition of Lord Bacon must be called to mind: he had foreseen the probable fall of Somerset, and the rise of Villiers; and it was, therefore, essential to his own elevation, attached as he was to the growing favourite, that Somerset should not escape from the accusation which was brandished against him. Had Monson then been acquitted, the current of conviction would have received a check, and the great engines of the confederacy might have rested from their labours in safety; it was a measure of expediency therefore to concentrate the proofs against the chief actors, a policy with which my Lord Coke could hold no acquaintance, since both his mind and inclinations were habitually directed to other pur-

(*h*) State Trials, vol. i. p. 347.

poses (i). He was very calm during the trials of the Earl and Countess in the May following, and accounted with much modesty of manner for the possession of certain letters by the Commissioners which were used in evidence, a forbearance which may be attributed to the rebuke which he unquestionably received for his censorious speeches on Sir Thomas Monson's affair (k).

A droll incident related by Sir Anthony Welden, who, by the way, was not an author of much credit, should not be passed over here. Forman, the conjuror, who was resorted to by the enemies of Sir Thomas Overbury, had a book in which he kept alphabetically the names of those who consulted him; and it is recorded that he could give no advice till the parties applying had inscribed themselves in this book. "I well remember," says that author, speaking of Sir Thomas Monson's trial, "there was much mirth made in the court upon the showing this book; for it was reported the first leaf my Lord Coke lighted on, he found his own wife's name (l)."

His diligent services in unfolding the myste-

(i) See on this subject, Biog. Brit. p. 1386.

(k) See State Trials, vol. i. p. 347—365.

(l) Court and Character of King James, p. 111.

ries which overshadowed this murder, and the unbending rigour with which he denounced punishment on the perpetrators, although highly useful to the young minion, who was then approaching the sunshine of royal intimacy, and thus favourable to the ambitious Attorney-General, confirmed many enemies in their hatred of him, but gained him no friends at court, through gratitude or admiration in which those in power might justly have indulged. In a word, implacable dislike had rooted itself in the breasts of his antagonists, and till he fell from the exalted seat which he so eminently adorned, there was not any cessation of their disquietude and meanness. Yet he continued to persevere in that line of conduct which he held the most consistent with his duty, as the disputes in the great cases of *Commendams* and of the *Chancery jurisdiction* sufficiently testify. It was the constant practice of James I. to require the opinions of his judges before he ventured on any serious State prosecution; and he was equally tenacious to interpose his own judgment where any subject of importance came before the courts for decision. Coke again displeased the King. There had been an argument in the *Common Pleas* against the translation of bishops, in the course of which the

royal prerogative of granting Commendams was questioned. The bench had appointed a day for the consideration of this matter among themselves; but before its arrival, Sir Francis Bacon, the Attorney-General, sent a letter to Sir Edward Coke, signifying the King's pleasure that their meeting should be postponed until the Sovereign had been consulted (*m*). The Lord Chief Justice upon this requested that similar notices might be forwarded to his brethren, which the Attorney issued accordingly, congratulating himself, as it seems, that he had vanquished the opposition; but a contrary effect was produced: the Judges unanimously determined to adhere to their duty, and to proceed with the cause in dispute; and they pronounced the letter of the law-officer to be illegal. They justified themselves to the King in a document, to which each affixed his signature, declaring that their learning and understanding were required by the express command of the legislature to be faithfully administered to the public, and with justice and expedition. Speaking of the mandate which had been sent, their words were: "In case any letters come unto us contrary to law, our oath

(*m*) Bacon's Works, Lond. 1819, vol. iv. p. 637.

is, that we do nothing by such letters, but certify your Majesty thereof, and go forth to do the law notwithstanding the same letters; we have advisedly considered the letter of Mr. Attorney, and with one consent do hold the same to be contrary to law, and such as we could not yield to by our oath (*n*).”

The King was incensed at this firmness: he returned an answer condemning their non-compliance; he asserted that their oath touched cases only between subject and subject, and that it was designed to prevent the Prince from being solicited by either of the parties; finally, he again commanded them not to proceed (*o*).

When James arrived in town he ordered all the Judges to the council table, tore their letter in sunder, and rebuked them for their supposed audacity (*p*).

On this occasion the independent manliness of Coke was conspicuous: whilst, in common with his brothers, he craved pardon of his Majesty for undue presumption, or, as perhaps it might at this day be done if a superior power were offended, regretted that the displeasure of his Sovereign

(*n*) Biog. Brit. tit. Coke, Sir Edw. where the letter is set out as said to have been transcribed from the act of Council.

(*o*) Biog. Brit. as above. Franklyn's Annals, p. 17.

(*p*) Ibid.

had been incurred, he stood boldly on the matter, and affirmed that the stay of his Majesty was a delay of justice, against law and his oath (*q*). The King turned in anger to the Chancellor after a hasty expression in support of his prerogative, and demanded his opinion; but that wary lawyer referred the interpretation of these quarrels to the King's counsel, aware that Bacon's intellect and address were mainly necessary on such a crisis. Coke resolutely said, that the duty of a King's counsel was to plead before the Judges, not against them, but he was overruled by the King and the Chancellor. All the Judges then submitted, except Sir Edward Coke; who, on the question put, "Whether in a case depending, in which the King might conceive himself concerned in power or profit, and required to consult with them, they ought not to stay proceedings?" said, when that case should be, he should do his duty. The day now drew nigh for the argument on Commendams, and we are told that all the Judges at length agreed that the power of the Crown should not be questioned. The Privy Council resolved afterwards, that the King's desire was not against the Judges oath,

(*q*) Franklyn, p. 18.

and they subscribed their opinion to that effect (*r*). The matter thus ended triumphantly for the power of royalty, but the impression on our minds regarding the Lord Chief Justice must be satisfactory and respectful ; it is beyond a doubt that he yielded only when the sense of interest became too powerful for those with whom he acted, and deadened that force of persuasion which he had before so successfully employed.

There were yet other anxieties in store for this great man ; and in one very serious transaction, which had its course about this time, it is with regret that we find a want of that wisdom and penetration which it was his custom to exercise. During the proceedings against the murderers of Sir Thomas Overbury, a trial took place in the Court of King's Bench, which terminated in favour of the defendants by means of a fraudulent trick (*s*). The plaintiff in the cause sought for relief in the Court of Chancery, and, on the refusal of the defendants to answer, they were committed for contempt, which occasioned in them so great an irritation, that they pre-

(*r*) Franklyn, p. 18. Collier's Ecclesiastical History, vol. ii. p. 710.

(*s*) Kennett's Comp. Hist. of England, vol. ii. p. 704. Franklyn, p. 19.

ferred indictments against all the parties who had applied to Equity, and petitioned the Star Chamber against the Lord Chancellor (*t*). The bills were thrown out by the Grand Jury, and the King's Counsel, to whom the main business was entrusted, having reported that the constant practice of the Chancery, from the time of Henry the Seventh, had been to relieve suitors where there was no remedy by the strict course of the common law, James was pleased to declare himself satisfied, and afterwards to confirm the disputed authority by his privy seal (*u*). We have now to relate the share which Lord Coke had in this transaction, which was not finally settled until the summer of 1616, though the rise of it had been in the early part of the preceding year. It must be presumed that the learned Judge was not ignorant of the resistance which these Chancery defendants offered; certain it is that he neither condemned nor discountenanced them; and it is said in express words by one writer, that he interposed and encouraged the complainants (*x*). Bacon, while he would seem to insinuate that his rival had

(*t*) Kennett, p. 704. Franklyn, p. 20.

(*u*) Historical Essay on the Jurisdiction of the Chancery, p. 51.

(*x*) Franklyn, p. 20.

no share in the concoction of this business, artfully draws the King's attention to a remarkable sentence in the Judge's charge to the Grand Jury, who ignored the bills of indictment. Amongst other things, this advice was thrown in, that "if any man, after a judgment given, had drawn the said judgment to a new examination in any other court," they should specially regard it (*y*). The Attorney further declares, that if any puisne Judge were concerned in stirring up the quarrel, he ought to have lost his place, yet admits that Coke's services were at that time of a value so great, (it was at the crisis of Sir Thomas Monson's trial), as to render his removal, while Somerset's fate remained doubtful, *highly impolitic* (*z*). Wilson writes, that when the petitioners appeared against the Chancellor in the Star Chamber, Coke joined with them, and threatened him with a *præmunire* (*a*). No one can suppose that this learned Judge was the original promoter of this disturbance, or that he used any undue influence to sustain the indictment; yet it will be held probable by all, that when he found the matter agitated, he

(*y*) Bacon's Works, Lond. 1819, vol. v. p. 379.

(*z*) Ibid. p. 381.

(*a*) Wilson's Life and Death of King James, in Kennett, vol. ii. p. 704.

would strive to support the object of his most anxious solicitude, the common law of England. It is clear that he relied either on the statute of Henry IV, which declares, that on judgments given in the King's Court, parties shall be at peace, unless the judgments be undone by error or attain (b), or on the 27th Edw. III, which enacts, that such as sue in any other court, to defeat or impeach the judgments given in the King's Court, shall, on their neglect to answer after summons, be outlawed (c). Lord Bacon, however, explains the former statute as relating to the quieting of possessions against disturbances; the latter, as threatening persons who were accustomed to appeal to Rome against the decisions of English courts (d); and he further observes, that by the Act of Henry IV. no penalty of *præmunire* attaches (e). We have seen that the Chancellor was justified in his claim of jurisdiction; and it would be useless to deny, that although this failure of Sir Edward might not have been the proximate occasion of his downfall, it gave confidence to his enemies, and mainly helped them in marking out the

(b) 4 Hen. IV. c. 23.

(c) 27 Edw. III. c. 1.

(d) Bacon, p. 378.

(e) Ibid.

catalogue of his offences (*f*). He had now, indeed, been for some time obnoxious, by a constant resistance to court measures and an

(*f*) The jurisdictions of the courts of Chancery and Common Law are now prevented from clashing, by the admirable rules which have been introduced and adhered to by the Judges. There are two ways by which the plaintiff in the action, which gave rise to such disturbances, might be relieved at this day: the first would be by a nonsuit, which only disposes of his case *pro hac vice*, leaving it open to his discretion to proceed afresh against the defendant; the other, by application for a new trial, which, under the fraudulent circumstances disclosed in the case disputed, would, at this day, inevitably be conceded. It is, moreover, a rule with Judges in equity, that they will not aid a plaintiff, unless he is without remedy in the courts of law. Thus, in the words of Mr. Fonblanque, "Where there is no remedy at law, equity will certainly grant one; but if a man comes to be remediless at common law by his own negligence, he shall not be relieved in equity."—Fonbl. Treat. of Equity, vol. i. p. 158. If a man be applied to for payment of a debt, and he discharges it under process of law, and afterwards discovers a receipt which sufficiently proves that the money has been twice paid, here, as there is no help for him at law, the court of Chancery interferes to prevent so great a wrong as he would otherwise sustain. If a copyhold be enfranchised by the words "lands, tenements, &c. with all commons thereto appertaining," here again, as the common becomes extinct in the eye of the law by the enfranchisement, a court of equity will prevent the lord of the manor from gaining an undue advantage, in opposition to his own declared intention of continuing the right of common. See a very learned and able Note by Mr. Swanston in his Reports, vol. ii. p. 22, note (a).

adherence to the common law, which perhaps he strained beyond a due prudence and moderation. He had opposed the articles of Archbishop Bancroft against prohibitions (*g*); he had spoken intemperately in open court of the King's clemency to Sir Thomas Monson; he had encountered the Chancellor in the open field; and, as we shall read presently, he was not backward, when the occasion offered, to disappoint the wishes of Villiers, the new favourite. The high church party, the attendants on royalty, the friends of the aged and revered Lord Ellesmere, were thus against him; and the King himself could not have well estimated a man, of whose supposed misdeeds and irreverent actions he was constantly informed by a sedulous and implacable antagonist. There were others, moreover, who held him in disrepute: the surviving friends of Essex and Raleigh had not forgotten the unrelenting asperities of the Advocate, who stepped beyond the bound of moderation to overwhelm their patrons; and many there were in those times of servility, who were unable to contemplate his integrity without the unseemly feelings of rancour and abuse.

(*g*) See Collier's Ecclesiastical History, vol. ii. p. 688.

It was no marvel, therefore, that on the 30th of June 1616 he was sequestered from the council table, and ordered to abstain from riding the summer assizes. He was also directed to review his books of Reports, and to prune from thence certain extravagant opinions contained in them. On the 15th of November following Sir Henry Montague was made Chief Justice of the King's Bench (*h*). Some colorable excuses were, however, necessary to produce this issue : he had been summoned, therefore, in the year preceding to attend the Privy Council, where several charges were brought forward to his discredit. The first accused him of concealing a statute of 12,000*l.* whilst he was Attorney-General. This was taken from Sir Christopher Hatton for his use ; and the penalty on the part of Sir Christopher was, that he should not pay the debt, nor agree to any surrender, discharge or release of it. To this charge the Judge fully answered, that the assurance had been made twelve years, and that if any error had been committed, his exertions and occupations on the discovery of the

(*h*) Biog. Brit. tit. Sir Ed. Coke, citing an extract from a MS. collection, belonging to Dr. Moore, Bishop of Ely, and afterwards to the University of Cambridge, the gift of King George the First.

Popish Plot, which occurred at that time, should blot the remembrance of it; that, moreover, the payment was impossible, young Mr. Hatton not having more than 100 marks per annum, and the debt being 35,000 *l.*; that he had not derived any profit, except the presentation to a benefice; and, which is worthy of notice, that the Crown was content with the establishment, and that he only took a bond to continue it (*i*).

Many years afterwards the heir of Sir Christopher Hatton sued, in the Court of Wards, to make void the extent which had come to Sir Edward Coke's hands upon his father's property; when, after due argument and consideration, the Chief Justices Ley and Hobart, Chief Baron Tanfield and Mr. Justice Doderidge, who assisted the Master of the Court, gave judgment that the extent was good, and that the land was well burthened (*k*). It was upon this occasion that Sir Henry Yelverton, the Attorney-General, being urged to conduct the case against the defendant, exclaimed, " May my tongue cleave to the roof of my

(*i*) Biog. Brit. tit. Sir E. Coke, p. 1390. note (*n*). And see Sir D. Carleton's Letters, p. 45.

(*k*) Godbolt's Reports, p. 289. Sir Edward Coke's Case.

mouth whenever I open it against Sir Edward Coke! (l) ”

The second matter was, that he uttered high words of contempt in the seat of justice. He justified these consistently with the established firmness of his character. They related principally to Sir Thomas Monson's affair, and the clashing of the two Courts.

The third offence related to his conduct on the discussion of the Commendams before the King and the Privy Council. He confessed that, in opposing his Majesty's counsel when they attempted to speak on that occasion, he had committed a fault; but he recapitulated his declaration on that day, when the King asked how he intended to act; he replied, as it became an honest and just judge. The report of the Privy Council was, that he had behaved himself before them modestly and submissively (m). The King was not satisfied with his explanations, and, on the day to which we have above referred, his sentence of suspension was passed.

His style of Chief Justice of England was then called in question; and he was told, that

(l) Coke's Detection, vol. i. p. 80.

(m) Biog. Brit. tit. Sir E. Coke, citing MS. collections of the late Rev. Mr. Thos. Baker of St. John's.

he could challenge no more than the title of Chief Justice of the King's Bench; and the Lord Treasurer so far descended as to notice the fact of Sir Edward's coachman riding before him bareheaded, as though it were a presumptuous act; but Coke replied, that the driver did it for his ease, and not by commandment (n).

It is related by Mr. Israeli, that when the writ of *supersedeas* was brought to the Chief Justice, he received it with dejection and tears; and to confirm this a MS. letter is cited. If it were so, the reader will readily allow that such weakness in the presence of a stranger was entirely inconsistent with the tenor of his life; and it may be submitted, that the letter must have proceeded from his enemies, who, beyond doubt, pursued him with the utmost slander and malignity. The narrations are as follow: "The thunderbolt has fallen on the Lord Coke, which hath overthrown him from the very roots. The *supersedeas* was carried to him from Sir George Coppin, who, at the presenting of it, received it with dejection and tears. *Tremor et successio non cadunt in fortem et constantem virum (o).*" It is more likely that the messenger should have shed tears than Sir Edward.

(n) Biog. Brit. citing MS. of Dr. Moore, as p. 124.

(o) D'Israeli's Character of King James the First, p. 125.

There is some difficulty when a great man falls in assigning the true reason of his calamity: authors in general differ on this point, each preferring that story which suits the bias of his own thoughts; and, in the present case, a variety of opinions is not wanting. Wilson, a writer of character, attributes the removal to the obstinacy and hostility with which the case of *præmunire* was conducted in the Star Chamber; and he adds, that the accusations which we have mentioned were the consequences of that quarrel (*p*). From the words of another writer we collect, that the hasty expressions used on the trial of Monson had no little weight in forwarding the change; and such, it appears, was the general rumour (*q*). Yet it was hinted by the Lord Chancellor, in his speech to Sir Henry Montague on his appointment to be Chief Justice, that the popularity of his predecessor had done him no service at court. "It is dangerous in a monarchy," said Lord Ellesmere, "for a man holding a high and eminent place to be ambitiously popular; take heed of it (*r*):" and still the distinct occasion of Coke's disgrace was not divulged. But we

(*p*) Wilson's Life and Reign of James the First, p. 95.

(*q*) Coke's Detection, vol. i. p. 88.

(*r*) Sir Francis Moor's Reports, p. 827.

have a credible authority, which stands not in need of corroboration, for asserting that the true cause of his dismissal was a refusal, on his part, to admit two trustees into the office of chief clerk, for enrolling the pleas in the King's Bench. Sir John Roper had agreed to resign this place in consideration of a peerage; and Coke, during the prosperity of Somerset, had promised that he would oblige that favourite by an act of that kind (s). And some time before the resignation of that gentleman, Bacon relates a dialogue between himself and the Judge, in the course of which Sir Edward said, "Mr. Attorney, I will not wrestle now in my latter times;" alluding to the intended disposition of the places: and this speech was construed into a meaning of compliance (t). However, when Sir John surrendered, the Chief Justice, considering the office as wholly at his disposal, suggested that, as the salaries of the Judges in his court were not over-abundant, the profits of this clerkship might well be divided for their augmentation. He said, that the Judges served the King to their loss; and we are told, that he refused to admit of Vil-

(s) Stephens's Introduction to Bacon's Letters, p. xxxvii.

(t) Bacon's Works, Lond. 1819, vol. v. p. 366.

liers's nomination, and maintained his right (*u*). This negotiation took place in July; and the the new Judge, who was made in November, and who had previously bound himself by an obligation to perform the desired act, immediately admitted the Viscount's deputies (*x*). There was yet another mystery in this transaction, which will be best explained in Lord Bacon's own words: he sums up the matter, in a letter to his new patron, thus—"Lastly, I did cast with myself, that if your Lordship's deputies had come in by Sir Edward Coke, who was tied, (that is, under an agreement with Somerset), it would have been subject to some clamour from Somerset, and some question what was forfeited by Somerset's attainder, being but a felony, to the King; but now they coming in by a new Chief Justice, all is without question or scruple."

Had the deprived Magistrate thought it just or expedient to have proffered a bribe, even this last objection might have been surmounted, so venal were those times; but although he was tempted with the restoration of his dignity if

(*u*) Coke's Detection, vol. i. p. 92. where the name of Sir Nicholas Tufton is mistaken for that of Sir John Roper. See Bigg. Brit. tit Sir Ed. Coke, p. 691. note (*s*).

(*x*) See Bacon's Letters by Stephens, Lond. 1736, p. 23.

he would bind himself with a golden chain, he replied that a judge must not take a bribe, nor pay a bribe. This saying was mentioned by his wife, Lady Hatton, to Bishop Hacket (y).

An able writer of modern times sums up the whole matter thus: "It appears deducible from the whole evidence which has come down to us, and especially from the letters of Sir Francis Bacon, that James was in fact dissatisfied with his Chief Justice on various political grounds, and Villiers on private ones; but the diligence exerted by Bacon himself in fostering these disgusts, seems to have had a great share, perhaps, indeed, the greatest of all, in deciding his expulsion from office (z)."

It should not be concealed, that while Bacon must have been aware, in all likelihood, of the particular quicksands on which his rival would be driven, he had yet many other subtleties in preparation for the accomplishment of his purpose. It was of no concern to him for what cause his opponent was disgraced, his main object being to remove a person so formidable and obnoxious to his interests. Thus we find, in a letter to the King, dated the 6th of

(y) Hacket's Life of Archbishop Williams, vol. ii. p. 120.

(z) Aikin's Memoirs of the Court of King James the First, vol. ii. p. 31.

October 1616, and subscribed by Ellesmere, and Bacon, then attorney-general, many intimations intended to smooth the way for Coke's departure. His Majesty was reminded of the extravagancies in the Reports, and advised, that people expected at his hands the best and wisest resolutions; that the change of Judges was a measure of great ease and indifference; and that if the court were without a head even for a whole term, no hindrance of justice would ensue (*a*). In another paper, written probably about the same time, intitled, "Remembrances of his Majesty's Declaration touching the Lord Coke," the alterations made in the Reports after three months consideration were animadverted upon as of no weight, and offered rather in scorn of the King than reverence towards him. Coke intended no disrespect to the high personage whom he served; if, therefore, he merely wrote, in correction of his books, that Montagu was Chief Justice in Edward the Sixth's instead of Henry the Eighth's reign; that the Prince is Duke of Cornwall in French, and not Duke of Cornwall in Latin (*b*), with a few other matters equally trivial, we must conclude that the most learned lawyer of the day could but ill brook the spite of his oppress-

(*a*) Bacon's Works, Lond. 1819, vol. vi. pp. 125, 126.

(*b*) Id. p. 129.

ing and less able adversaries, and that the levity with which he treated the subject was the result of a due contempt, not for his Master, but for those who had so ill advised him. To dismiss for the present the subject of these Reports, he was summoned before the Lord Chancellor on the 22d of October, who informed him that his emendations had not produced the expected satisfaction; on which he proposed that the twelve Judges should meet as a committee for the examination of his supposed errors. This, however, was not conceded, though a committee of Judges was appointed afterwards; and on Sir Francis Bacon's promotion to be Lord Keeper, two more were added to their number, on which the business was carried on more diligently, until Coke was again received into favour, when the affair was dropped (c). It is now our painful task to advert again to the animosities of the great men we have so lately mentioned.

The famous letter of remonstrance sent to the Judge, while he was under censure before the Privy Council, must not be passed in silence. Sir Francis was the author of this severe production, which, while it tends not a little to abase the character of one who could joyfully exult over a fallen enemy, is yet replete with

(c) Bacon's Works, Lond. 1819, vol. v. p. 473. in the note.

good sense and experience. With much hypocrisy the author proffers his counsel under the garb of friendship, and carefully observes to note down the time of his interference as the season of his reader's affliction. He then assumes the monitor. "First, then," addressing Lord Coke, "behold your errors. In discourse you delight to speak too much, not to hear other men; this, some say, becomes a pander, not a judge; for by this sometimes your affections are entangled with a love of your own arguments, though they be the weaker; and rejecting of those, which, when your affections were settled, your own judgment would allow for strongest. Thus while you speak in your own element, the law, no man ordinarily equals you; but when you wander, as you often delight to do, you wander indeed, and give never such satisfaction as the curious time requires." "You cloy your auditory when you would be observed; speech must be either sweet or short. You converse with books, not men, and books especially human; and have no excellent choice with men, who are the best books; for a man of action and employment you seldom converse with, and then but with your underlings." The life and practice of the fallen sage is then criticized with acute severity; his virtues are represented to have produced

vicious consequences; his caution to have brought forth disasters; his boldness to have stifled truth. As we shall necessarily recur to this letter when we endeavour to sum up his character, it will be sufficient to point attention to it as an unsparing and illiberal censure, conceived in hatred, and fostered by malicious triumph.

It was Bacon's object to keep his rival from the Chancellorship; he succeeded in this, as we have seen, but having attained the height of his wishes, seems to have relented awhile from his persecution. For it appears that Sir Edward indulged hopes of reaching the high office of Lord Treasurer, which, as it was not according to the course of preferment which the other had marked out for himself, so the enjoyment of it would breed less envy and discontent in his mind.

It is not surprising, then, that in future years the name of Coke should have been handled by the Lord Keeper with more respect, though the ancient dislike, fomented as it was by a private quarrel, which soon after broke out, might never have subsided.

Sir Edward was now sixty-six years of age, yet by a tenacious adherence to temperance and regularity he had preserved his vigour of body and mind unimpaired and unbroken. He was

not satisfied with the prospect of retirement, though his fortune was ample, and his career in probability nearly run, he therefore found opportunity to revive a proposal which had been made to him, for an union between his youngest daughter, by Lady Hatton, and Sir John Villiers, the elder brother of Buckingham, which it seems he had before discountenanced (*d*). This communication was made through Secretary Winwood, who wrote to the Earl in Scotland, where the court then was; and who related that Coke, coming to transact business with him, began to complain voluntarily of his removal from the King's favour, and declared that he could not any longer exist without it: he further regretted his want of respect in rejecting the offers which had been made to him, promising that if they should be renewed, he would ensure very advantageous terms on the part of his daughter (*e*). This anxiety on the part of Sir Edward to acquire the King's favour afresh, is confirmed by a letter, dated the 25th of February 1617; at the end of which he humbly desires, that he may be so happy as to kiss his Majesty's hands, and to his exceeding comfort to see his

(*d*) Stephens's Introduction, p. xlii.

(*e*) Ibid.

sacred person (*f*). Winwood was the more ready to oblige on this occasion, by reason of a serious difference which had arisen between himself and Bacon, the new Lord Keeper, who, in a fit of haughtiness, would scarcely allow a privy counsellor to approach him, on which Winwood rose and refused to sit again at the board whilst it was under that authority (*g*).

Buckingham accepted, without delay, the tendered alliance; but easy as the offer and assent had been on the part of the father and the suitor's brother, there was another person, who, far from being gained over, had not even been consulted on the matter thus renewed (*h*). Lady Hatton was a woman of high spirit, who held but few things in common with her husband, among which love had little or no place; it was, therefore, no marvel that her indignation burst forth upon this emergency, even though she had approved the match, of which there is no mention. Indeed, we are informed that the young lady had considerable expectations from her, which renders it more probable that she would have preferred her own choice

(*f*) Bacon's Works, Lond. 1819, vol. vi. p. 137.

(*g*) Court and Character of King James, p. 121.

(*h*) Biog. Brit. tit. Sir E. Coke, p. 1392.

of a partner for this daughter (f). The matter actually expanded into a state intrigue: Lady Hatton carried off her child, and placed her at Sir Edmund Withipole's house near Oatlands (k); Coke applied to Buckingham for a warrant from the Privy Council for her restoration to him, and Bacon took the alarm, as though he foresaw his own ruin in the reconciliation of an old enemy to his Master. But Coke, before he had received an answer from the Crown, went with his sons to Sir Edmund's and retook his daughter (l); on which Lady Hatton complained to the Privy Council (m), and the Lord Keeper countenanced the Attorney-General, Yelverton, in filing an information in the Star Chamber for the rescue (n).

The letter which Coke wrote to Buckingham on this subject, is here subjoined; it is from Mr. East's collection (o):

“ Right honourable,—After my wife, Sir Edmond Withipole and the lady his wife, and other the confederates to prevent this match between Sir John Villiers and my daughter

(f) Stephens's Introduction, p. xliii.

(k) Ibid. (l) Ibid.

(m) Biog. Brit. p. 1392.

(n) Camd. Ann. Jac. p. 26.

(o) General Dictionary, vol. iv. p. 386.

Frances (whereunto his Majesty had given his consent and blessing), had conveyed away my derest daughter out of my house, in most secret manner, to a house near Oatland, which Sir Edmond Withepole had taken for this summer of the Lord of Arguile, I, by God's wonderful providence, findinge where she was, together with my sonnes and our ordinary attendants, did breake open two doors, and recovered my daughter, which I did for these causes; first and principally, lest his Majestie might thinke that I was of confederacy with my wife in conveying her away, or charge me with want of government of my houshold in suffering her to be carried away, after I had engaged myself to his Majestie for the furtherance of this match.

“ 2. In that I demaunded my childe of Sir Edmond and his wife, and they denied to deliver hir to me. And yet for this, a warrant is given to sue me in his Majestie's name in the Starre Chamber, with all expedition, which tho' I feare not well to defend, yet it will be a great vexation. But I have just cause to bring all the confederats into the Starre Chamber for conveyinge away my childe out of my house. If I had not recovered my daughter when I did, the match could never have proceeded; but nowe (noble Lord) protect me

from the malice of men, and I make no doubt, Sir, she is now sequestred by the Lords to Mr. Attornie's house for a term, and after to my Lord Knyvett's house, whereas by law the custody and government of my childe belongeth to me; which I must obey until other order be taken. And so resting under the protection of your honorable favor and supportation, I shall ever remayne,

“ Your devoted servant,

“ July 15, 1617.

“ *Edw. Coke.*”

Lady Hatton was not passive upon the occasion: on an application which was made to her by Buckingham, probably persuading her to approve the match, she addressed the following letter to him:

“ To the Right honorable the Earl of Bokingham, Master of the Hors and Privey Counsoler to the Kinge.

“ My Lord,—If your Lordship had not wrytt, by which I was seurlly engaged to a retorne, I had not bin so bolld with your leasur, I had pasyently sitten doune wittth thes violenses of-red me, thow I be the first motther from whom a doupter hath bene poled out of her fatter's hous, and by her fatter mayd a presoner in her halfe brothers. Neyther seeke I the honour of

this trecty, and therefore contradiot because I ame nött woo'd, as your Lordship toucheth in your letter. For if I had bene to bin treated withall, I should as the last winter haue answered clerely, a faror delyng then some now have aforded your Lordship's mother and brother, who breaking the first, as you learn, now meane as lytill truth, thow to their ends beeter disgised. But I ame a woman, and must sofer, and les then a woman in being his wife. I will eas my best pasiens and joy, that thes violenses I sofer is for no other fault then for obeying the Kinge in making good thatt bargin the Kinge hath received 10,000 £. I have euer respected your Lordship, and on all occasyons have so exprest myselfe, and dooe as much as any, so evor detest that defamasion layd upon Sir John Velors, your brother; which I only speake from the respectt I carry to your sattisfaccion and my one honor, beeing of a famyly thatt can acknowlege your respectts to me, and would be ashamed of such unworthynes in me. Your Lordship therefore vouchsafe me please in your good thofts, till I shall deserue the contrary, and judge me by your knolege nött by others report; for I am,

“Your Lordship's respectfull frend,
Elizabeth Hatton (p).”

(p) General Dictionary, vol. iv. p. 387.

Although Sir Edward had declared that he could justify the act according to law, yet by a charitable and wise recommendation all the parties were reconciled; the Lady Compton, mother of Sir John Villiers, who had been violently incensed, came to a good understanding with Lady Hatton, the daughter was given up to her parents, and the information suspended till the King's pleasure could be ascertained (*q*). This amicable arrangement was effected by Sir Henry Yelverton, the Attorney-General (*r*). This gentleman afterwards wrote a letter to Lord Bacon, in which he represents Coke as violent and transported with passion till he had gained his ends, then triumphant and audacious. He affirmed, that Sir Edward's declaration of his daughter's deep love for Sir John Villiers was presumptuous, and finally entreats his patron to interfere with activity, and to retort the clamour of the business upon the outrageous behaviour of his rival (*s*).

The Lord Keeper had commenced an open campaign to defeat the proposed match, which not only redounded to his own discredit, but in this instance affected him with a temporary

(*q*) Stephens's Introduction, p. xlili.

(*r*) Bacon's Works, Lond. 1819, vol. vi. p. 159.

(*s*) Id. p. 165.

censure and disgrace among those he had so long courted. He reasoned in the following free and bold style with Buckingham : " First, he," (Sir John Villiers) " shall marry into a disgraced house, which in reason of state is never held good; Next, he shall marry into a troubled house of man and wife, which in religion and christian discretion is disliked. Thirdly, your Lordship will go near to lose all such your friends as are adverse to Sir Edward Coke, myself only except, who out of a free love and thankfulness shall ever be firm to you." He then advises against the marriage (*t*). In another letter to the same nobleman, he gives us occasion to believe that his real intentions had been suspected ; for following the rule adopted by many who being without honour make the greater pretensions to it, he says, " If your Lordship think it is humour or interest in me that leads me, God judge my sincerity (*u*)." This, however, was not the only effort on his part, he addressed the King, and took a new ground in his letter ; thus he attributed the humbleness of Coke to the loss of 2,400*l.* which he had been ordered by certain Commissioners to pay to the Governor of Dieppe, in a matter

(*t*) Bacon's Works, Lond. 1819, vol. v. pp. 477, 478.

(*u*) Id. p. 481.

concerning Sir Robert Rich and the protection of a lady; of which affair Stephens thus speaks, " All that I have seen relating to the difference between the Governor of Dieppe and Sir Edward Coke is contained in a letter of Secretary Winwood to my Lord Buckingham, dated 29th June (1617), and in these words, ' Sir Edward hath consigned into the hands of the Lords 2,400 *l.* for the satisfaction of the French Ambassador, in the cause which concerneth the Governor of Dieppe (*x*).' " The Keeper then boasts of his power over the mind of the mother, (Lady Compton); intimating that he more than any other person could prevail with her (*y*).

Bacon, not unlike many other men, whose sudden advancement has clothed them with an overbearing insolence, became too much elevated by his recent promotion, and besides he had carried matters too far by his indecent expostulations, which surpassed all the bounds of prudence and moderation. He had, most unadvisedly, attempted to eclipse the rising star of the court, and to shed around himself a lustre which he had borrowed, and which but ill adorned him. He was now to be humbled; for Buckingham wrote to him, that it was the

(*x*) Bacon's Works, vol. v. p. 479.

(*y*) Ibid.

King's intention at his first sitting in council to reprimand those counsellors who had been active in opposing the union, and that this would be done by naming the errors without the persons (*z*). Every one is acquainted with the Lord Keeper's submissiveness under this rebuke, which saved him from immediate punishment, while Sir Henry Yelverton continued firm, and became for a time involved in difficulties (*a*). The marriage was solemnized on Michaelmas-day, while Sir Edward Coke had previously been restored to his dignity at the Council Board (*b*). We are told, that he paid 10,000*l.* as a dowry; that he assured to Sir John Villiers a rent-charge of 2,000 marks per annum during his life, and of 900*l.* a year during Lady Hatton's life, if she survived him; and after their deaths, the manor of Stoke, in Bucks, of the value of 900*l.* per annum, to Sir John Villiers and his lady, which was one half of the lands intended for his two daughters by Lady Hatton,

(*z*) Stephens's Introduction, p. xliii.

N. B. The Act of Council, stating the reconciliation between Coke and his wife, bore date July 18, 1617; and Bacon's first letter to Buckingham was dated July 12, in the same year.

(*a*) See Bacon's Works, vol. v. p. 486; vol. vi. p. 160, &c. Stephens's Introduction, pp. xv. xvi.

(*b*) *Camd. Ann. Jac.* p. 26. Stephens, p. xlv.

and that these conveyances were carefully drawn and certified by King James under the hands of some chief lawyers (c).

There is a curious letter from Lady Hatton to the Earl of Buckingham on this subject, and which is here given, with some memoranda by Sir Edward Coke, confirmatory of his gifts :

“ To the Right honourable the Earlle of Buckingham, Master of the Kinge’s Horse.

“ My Lord,—According to the resolution taken before your Lo. your mother and brother demaunded the paper mentioned. Sir E. C. answered that eyther Secretary Winwood hade it, or it was by hee knew nott where, with some euasion besides. We are now att a stand ; I not daring to trust my bade memory doe now wryt my conseauings. What seutts with the Kinge’s menyng and yours I pray may bee written in a letter by the King’s commaund to the King’s Attorney. I conseaued by the Kinge’s words that Sir Edward Cooke was asked whatt he did or would dobe more in this mach for the Kinge’s favor. Sir E. C. anesered, that hee would assuer all the land with this doupter, and give his elldor doupter an honorable porsion in mony. The Kinge bad him wryte it. Sir E. C.

(c) Stephens’s Introduction, p. xlv.

writt a paper, and putt in both the doupters. The Kinge asked whatt he had to dooe with the other doupter; so as Sir E. C. mended it; the same as wee remember was both repeted and avoued by your Lordship, to myselfe, your mother and brother; whos respectte I fynd so to my contentte as I shall desyer to bee enabled to make demonstrasion thereof, and ever to avow myselfe

“ Your afeccionatt and loving frend,

“ *Elizabeth Hatton (d).*”

“ *Brief Articles to be performed on my part.*”

“ 1. During my life two thousand markes by the yeare for the present maintenance of Sir John and my daughter Frances.

“ There's already conveyed of manors and landes of myn own inheritance, after the decease of me and my wife, 1,500 *l.* per annum, to the use of me and my daughter; and I am to convey three hundred pounds more per annum of his estate, in toto 1,800 *l.* per annum.

“ 3. I will give 10,000 *l.* to be layd out in lands to the use of Sir John and my daughter Frances.

“ 15 Junii 1617.

“ *Edw. Coke.*”

(d) General Dictionary, vol. iv. p. 387.

“ On my Wife’s part.

“ My wife hath lands of inheritance, which she hath purchased since she was my wife, as followeth :

“ 1. The castle and isle of Purbeck, in the countie of Dorset.

“ 2. The manor of Croft, in the county of Lincolne.

“ 3. The manor of Wittlesea, in the county of Cambridge.

“ 4. Hatton House in Holborn, and land in Middlesex.

“ Also all the plate, houshold stuffe, leases, goods and chattels, which my wife brought with her, shall, after our deceases, be devided between them, and in the meane [time] they shall not be sold, given, or diminished.

“ Edw. Coke.”

The bridegroom was created Viscount Purbeck and Baron Stoke in 1619, but the marriage was far from bringing happy results ; for whether, as it has been said, Lord Purbeck went mad through pride (*e*), or was infuriated, according to others, by his wife’s wicked conduct, it is certain that he left the court under circum-

(*e*) *Camd. Ann. Jac.* p. 58.

stances by no means agreeable (*f*); and that his lady was generally, and one would fear with truth, suspected of a criminal intimacy with another person (*g*).

Lady Hatton seems to have paid dearly for her opposition: she remained under restraint (*h*) till the 2d of November, at the instance of her husband; and recovered her liberty only through the profuse liberality of her settlements (*i*).

Yet, whilst under this confinement, although her means for the present were narrowed, she entertained an abiding resentment against her husband, as appears from her petitions to the Crown for favour. Two were delivered as follows:—

“ Most gracious Sovereigne;

“ Please to cast downe your sacred eye upon the grief which nearest toucheth the afflicted minde of your humble subject; which is, that I heare your Majestie is offended with some errors committed by mee, a woman and a mother, whose sexe and qualitie, as too weake

(*f*) Court and Character of King James, p. 137.

(*g*) Stephens, p. xlv. Strafford's Letters, vol. v. pp. 390, 426, 434.

(*h*) Several private letters, said to contain an account of this confinement.—*Quere*, where to be found?

(*i*) Biog. Brit. *ut supra*, p. 1392, note (I).

to wrastle with stronge apprehensions, whatsoever the cause bee, will, I trust, with the mercy of a just Kinge, receive a more favorable interpretation, and the rather in regarde of my contrition and sence I have of my fault, and of the losse of your Majestie's good opinion, which as I value before all private respects, so shall I bee most happy in recovering the same, which with my uttermost I will indeavoure. God, whose substitute you are, requireth for the greatest offences but repentance, confession and a haste to amend, all which I humbly present to your Majestie, and lye at your royal foote for grace to her that is your Majestie's most humble and dutiful subject,

“ *Eliz. Hatton(k).*”

“ That your Majesty would be pleased, amongst your many other businesses of greater importance, to have in remembrance her last petitions; wherein is conteyned, in effect, the summe of what shee desireth: And that your Majestie would also vouchsafe to think upon the misery of a poore woman, who, for her obedience to your commandment, is both left by her husband, and deprived of her former allowaunce she then enjoyed to mainteyne her

(k) General Dictionary, vol. iv. p. 387.

familye, which nowe wantinge, she liveth in some necessitie, and also in continuell fear of her life, being credibly informed that the same servant of his that putt a quarrell upon hers, hath used to weare a stiletto in his pockett, contrary to your Majestie's commandment, which said servaunt he still continueth and keepeth in his service. That in consideration hereof, your Majestie would be pleased some speedye course may be taken to settle an estate upon her daughtere Villers, according to his promise made unto your Majestie ; and alsoe to releeve and supply the necessitie of her present waunts, and also to secure her from the feare and danger of those that seeke after her (I feare) life."

Probably it was during this confinement that the mutual recriminations between the lady and her husband took place, of which we find mention in the General Dictionary (*l*). The account is now extracted from that work :—

" There is likewise a long representation of her's to the King, in answer to one of Sir Edward Coke's, from which we shall extract some passages. She answers first to Sir Edward Coke's allegation relating to the assignment of Hatton House; and secondly, to his reasons for

(*l*) Citing the original papers of James West, Esq.

detaining his allowance of 2,000*l.* a year. The first of the reasons alleged by Sir Edward was, that she had denied him access to Hatton House; the second, that when he was at Newmarket with the King, she had conveyed away all his goods and plate. "To which," says she, "my memory serves mee not; but suer I am that it was when I hadd notice that there were certaine bills preferred against him in the Starre Chamber, that conteyne some foule misdemeanour he hadd committed in his circuits; and that I was credibly informed by some of the late Lord Chancellor's howse, that insteade of the *præmunire* Sir Edward Cooke pretended to bring upon the said Chauncellor, the said Lord Chauncellor was confident to make good against Sir Edward Cooke in the like kynde; therefore, let him not blame me if I meant to keep somethinge for myself, who hadd brought it all unto him, wherein if I did offend, I humbly crave pardon of your Majestie, against whom the offence was committed," &c. She then vindicates herself from the charge of having detained from him indentures and other writings of great value. With regard to her refusing to be called by his name, she says thus: "Sir William Cornwallis was the mann that came from Sir Edward Cooke, by whom

I returned this answer; that if Sir Edward Cooke would bury my first husband accordinge to his own directions, and also paie such small legacys as he gave to divers of his friends, in all cominge not to above 700*l.* or 900*l.* at the most that was left unperformed, he having all Sir William Hatton's goods and lands to a large proportion, then would I willingly stile myself by his name. But he never yielded to the one, so I consented not to the other. The like answer I made to my Lorde of Exeter and Lorde Burghley, when they spake to mee of anie such busines. And whereas he accuseth mee to have called him base treacherous fellow: the wordes I cannot deny, but when the cause is known I hope a little passion may be excused. It was when he had signed away all my livinge by my first husband, and sold his daughter, who was left to my care and truste by Sir William Hatton; and afterwards he deceived my children I had by himself of their inheritance. His sixth accusation against mee is the number of attempts I made the last sommer against your Majestie's commaund, concerning this last marriage of my sonne Villers and my daughter: I must confess I ignorantly did many, for which I humbly crave pardonn for all such offences as were by mee committed after your

Majestie's pleasure knowenn; and I give myself the happines to beleeve that your Majestie hath fully forgiven all those whatsoever. Were it not to make this writinge too tedious for your Majestie's readinge, I could much lessenn mine offences by the uncivill proceeding of Sir Edward Cooke and Mr. Secretarie Winwoode; but the one being dead I will forbear, and the other, out of the acknowledgment of that duety I owe unto a husband, will let slipp as many of his inhumane proceedings as I can, except such wherein he calleth mee by a writinge of Mr. Sollicitor to the Marquis of Buckingham, wherein I find how desirous he is to rubb up anie thing to make ill bloode betwixt my sonne Villers and myselfe, in that I should be obstinate against this marriadge; wherein I crave your Majestie's patience to heare my willingnes and unwillingnes thereto.

“ First for my willingnes, I call to witness my Lord Haughton, whome I sent twyce to moove the matter to my Lady Compton, so as by mee she would take it. This was after he hadd so fondly broke of with my Lorde of Bukingham, when he ruled your Majestie's favour scarce at the salerie of a 1,000*l.* After that my brother and sister of Burghly offered, in the Galerie Chamber at Whitehall, their

service unto my Ladie Compton to further this mariiadge, so as from mee she would take it. Thirdly, myselfe cominge from Kingstone in a coach with my Ladie Compton, I then offered her that if shee would leave Sir Edward Cooke I would proceed with her in this mariiadge. But let me intreate that a favorable construction may be made of this, that I be not adjudged an alien from Sir Edward Cooke's will and pleasure, which I hold fitt and am ready to obey. For the cause that made mee thus averse from him was, when he had signed away my livinge himself, yet would not by anie means give consent to mee to obey your Majestie, for neither myselfe nor any of my friends could ever obteyne his allowance thereto. But if I did signe it, he would (as he sayed) be revenged double and treble of mee. And when he was tolde that I should but signe what he signed before, his answer was, that what hee had donne was woorth nothinge, for if he once came upon his winge againe he would blowe all that awaye. Soe longe I stayed in due respect to have obteyned Sir Edward Cooke's leave, till my brother of Burghley and myselfe had committed two contempts against the Court of Chancery, and that warraunts were reddey to commit us both. Neither durst I

have donne any thing at all, hadd your Majestie's letters not given me the assurance I should not be toarn in pieces by this man as now I am. Secondly, for Mr. Sollicitor's Latin sentence from Sir Edward Cooke, I must lett passe, as being altogether unlearned in that language; but I presume it will not be thought fitt that a husband whose pleasure it is to leave a wife, should also take away all maintenance from her, and make her lyve of these poor gatherings that she in her younger yeares hath spared from her pleasures for the good of her children; but your Majestie, I presume, will be a just judge of that yourself. Neither doe I thinke it will be thought fitt that though he have five sonnes to mainteyne (as he alleadgeth in his writing) that a wife should therefore be thought unfitt to have maintenance accordinge to her birth and fortune. And concerninge the discourse that seemeth to have passed between your Majestie and him, I dare not presume to meddle with: only I beseeche your Majestie to conceive howe hee hath adventured to deal indirectly with me in all my occasions, that dares presume so to abuse your Majestie in his promises to yourselfe, &c. (*m*)”

(*m*) General Dictionary, vol. iv. p. 388.

Writers are silent as to the nature and value of her settlements, but it is agreed that they were very considerable ; and from the circumstance of her having purchased the island and castle of Purbeck, with other estates in different counties (*n*), it is probable that this account is not incorrect. On the 18th of the same month she entertained the King, the Duke of Buckingham, and other eminent persons at court, with a magnificent dinner, to which her husband, far from receiving a summons (*o*), was excluded by strict orders (*p*). It is, indeed, to be regretted that mention is made of serious disagreements between these parties long after this time, and many letters are said to be still preserved which contain an account of the affair. To so great a height did this feud at one time arise, that libellous matter against Sir Edward was poured forth with the consent and co-operation of his wife, for which Lord Houghton and Mr. Sergeant Ashley, who abetted this conduct, were imprisoned (*q*). Notwithstanding this, Camden relates, that when her son-in-law was ennobled she might have become Countess of Westmorland ; but he adds,

(*n*) Biog. Brit. Sir Edw. Coke, p. 1392, note T.

(*o*) Camden. Ann. Jac. p. 27.

(*p*) Strafford's Letters, Lond. 1739, vol. i. p. 5.

(*q*) Camd. p. 46.

that she refused to buy the title at the price demanded (*r*). And it will be seen, by a quotation from one of Lord Strafford's letters, that she was held in much esteem and consequence, and that she even obstructed the promotion of Coke: "The expectancy of Sir Edward's rising is much abated by reason of his lady's liberty, who was brought in great honour to Exeter House by my Lord of Buckingham from Sir William Craven's, whither she had been remanded, presented by his lordship to the King, received gracious usage, reconciled to her daughter by his Majesty, and her house in Holborn enlightened by his presence at dinner, where there was a royal feast; and to make it more absolutely her own, express commandment given by her ladyship, that neither Sir Edward Coke, nor any of his servants, should be admitted (*s*)."

After this ferment a serious breach continued between the husband and wife, and it was not until the month of July 1621 that a reconciliation was effected through the mediation of the King. It was not, however, cordial; for we have good reason to suppose that they lived apart to the day of Coke's death, since we have the following passage in a letter of Mr.

(*r*) Camd. Ann. Jac. p. 45.

(*s*) Strafford's Letters and Dispatches, vol. i. p. 5.

Garrard, written to the Lord Deputy Strafford a few months before that event: " Sir Edward Coke was said to be dead all one morning in Westminster Hall this term, insomuch that his wife got her brother, the Lord Wimbledon, to post with her to Stoke to get possession of that place; but beyond Colebrook they met with one of his physicians coming from him, who told her of his much amendment, which made them also return to London; some distemper he was fallen into for want of sleep, but is now well again (t)."

The short gleam of sunshine which was shed upon these latter days of Sir Edward revealed neither the restoration of his lost dignities, nor the gifts of better promotion; he was, indeed, noticed in various commissions, which were issued about this period; but it may reasonably be said, that these slender marks of royal favour were conceded to procure the service of his abilities, rather than as signs of confidence and advancement.

He was included in commissions for the banishment of jesuits and seminary priests (u), for the distribution of the Queen's jewels (x).

(t) Strafford's Letters and Despatches, vol. i. p. 265.

(u) Rymer's Fœdera, tom. xvii. p. 93.

(x) Id. p. 166. 176. 197.

for the ratification of a treaty between the Dutch and English merchants touching their trade to the East Indies (*y*), for inquiring into abuses respecting fines which belonged to the Crown, in regard of manorial dues (*z*), for the demise of royalties attached to the Crown, and the suppression of superfluous officers (*a*), and for examining into the prevalent offences of transporting ordnance into foreign parts (*b*).

Two other commissions remain to be mentioned, one which empowered Coke, amongst others, to enforce divers ordinances of the Church of England (*c*); the other, which enabled him to investigate Lord Suffolk's conduct as Lord Treasurer, and to which the reader will anon be more particularly referred (*d*).

On the 19th of October 1618, the Attorney-General applied for writs of *ne exeat regno* against several of the great Dutch merchants, and exhibited informations against them, for transporting gold and silver, in money, plate, and bullion, beyond the seas (*e*). One hundred

(*y*) Rymer's *Fœdera*, tom. xvii. p. 170.

(*z*) *Id.* p. 224.

(*a*) *Id.* p. 240.

(*b*) *Id.* p. 273.

(*c*) *Id.* p. 201.

(*d*) *Id.* p. 97; and see *Biog. Brit.* p. 1393, note U. for the exact order in which these commissions were granted.

(*e*) Stephens's Introduction, p. xlv.

and eighty of these persons, among whom was the celebrated Sir William Courteen, underwent a persecution in the Star Chamber, and we are told, that Sir Edward was mainly instrumental in procuring their conviction. He was at one time almost alone, for Sir Henry Yelverton, though warm at first, grew faint before the trial, and it was solely in consequence of a persevering and sure conduct on the part of Coke that the victory was gained (*f*). Lord Bacon intimates, that the injudicious trust reposed in an inefficient advocate at the outset of the affair had nearly destroyed it (*g*); but, (and he is never found willing to yield too much praise to men of merit), a variety of expressions evince the opinion he held of the usefulness of his contemporary (*h*). It is, indeed, not a little curious to observe the anxiety with which Sir Francis wrote during the temporary illness of the great man whom he had formerly considered as a foe, how sensibly his tone was changed on the decline of their rivalry, how eagerly he manifested a willingness to make the great abilities he once feared available for his

(*f*) Biog. Brit. p. 1394, citing memorable events in the reign of King James, MS.

(*g*) Bacon's Works, vol. vi. p. 226.

(*h*) Bacon's Works, Lond. 1819, vol. vi. *passim*.

Master's service. "If Sir Edward Coke continue sick, or keep in," said he, in a letter to Buckingham, "I fear his Majesty's service will languish too in those things which touch upon law; as the calling in debts, &c." (*i*). Again, at the time of agitating this Dutch controversy, "Sir Edward Coke keeps in still, and we have miss of him (*k*)." On the same subject, "Sir Edward Coke was at Friday's hearing, but in his nightcap; and complained to me, he was ambulant and not current. I would be sorry he should fail as in this cause. Therefore I desired his Majesty to signify to him by your Lordship, taking knowledge of some light indisposition of his, how much he should think his service disadvantaged in this cause, if he should be at any day away; for then he cannot sentence (*l*)." Again, he writes concerning fines, "We cannot, without prejudice to his Majesty's service, enter yet into them, and besides Sir Edward Coke comes not yet abroad (*m*)." It is impossible for any one to pass over these marks of respect, without ap-

(*i*) Bacon's Works, vol. v. p. 511.

(*k*) Id. vol. vi. p. 214.

(*l*) Id. p. 230.

(*m*) Id. p. 238; and see pp. 239; 240, to the same effect.

preciating the readiness with which a deprived magistrate, advanced in age, devoted both his counsel and strength to the King's welfare, the reverence which accompanied his opinions, and the steadiness which he showed in maintaining them. The service which he now rendered should have endeared him to royalty, for the King's heart was set upon the business (*n*); but the immense aggregate of fines, 150,000 £ which, as a writer well suggests, would have been at that time a seasonable relief (*o*), was much reduced by the mediation of Sir Noel Caron (*p*), and the ill-timed pliability of Buckingham (*q*).

It will be remembered, that Lord Suffolk was not backward to reproach the Chief Justice in his adversity for the supposed presumption of

(*n*) Bacon, vol. vi. p. 230.

(*o*) Biog. Brit. p. 1394.

(*p*) The States Ambassador.

(*q*) Stephens's Introduction, p. xlvi.—It is worthy of remark, that although Sir William Courteen was heavily fined on this occasion, both for his offence of exporting the coin, and corrupting the King's evidence *, no mention of this severity, or of the circumstance, is made in the various accounts of his life which have been handed down to us †.

* Stephens, p. xlvi.

† See Tracts relating to the East India Company, 1662, in the British Museum, tit. Courteen. Continuation of the case, &c. with a brief relation of his life, 1673.—Biographie Universelle, Paris, 1813. Courteen.

suffering his coachman to ride bareheaded, we shall now find Sir Edward Coke sitting in judgment on that nobleman, accused for misdemeanors in the Star Chamber. Whether he remembered and resented the injuries he had received on a former occasion, is beyond doubt a matter of opinion; but it must be confessed that in two cases of prosecution against persons who had been hostile to him, he gave his voice for a fine so immoderate, that other privy counsellors were earnest in reducing the sum, and they prevailed in both sentences (*r*). Wilson declares plainly, that he aggravated the Lord Treasurer's offences (*s*); and Sanderson, that he "found his malice at liberty to speak what he list (*t*)."

The King's revenue had become too scanty for his wants, and the difficulty of procuring supplies very formidable, so that two ways only remained open, to call a parliament, or to reform the expenditure. It was resolved to adopt the latter course; and, after a due investigation, it was suspected that the Lord Treasurer had

(*r*) In the cases of Lord Suffolk and Sir Henry Yelverton, Bacon's Works, vol. v. p. 592. Stephens's Introduction, p. xvii.

(*s*) Wilson's Life and Reign of King James, by Kennett, vol. ii. p. 711.

(*t*) Sanderson's Life and Death of King James, p. 437.

converted to his own use much of the money which he had received from the States for the delivery of their cautionary towns in 1616 (*u*). He was also charged with misconduct concerning the ordnance, and the army of Ireland (*x*). Coke was decidedly against him on the trial; he spoke of his extortions and lack of management, of his audacity, of the corruptions of his Countess, who took bribes with both hands, of the artifices of his deputy, Bingley; and then cited precedents to show how former Treasurers had been punished for malversations in their office (*y*). It is said, that if the Earl had submitted himself to the mercy of the Crown, he would have escaped, at all events, a severe penalty (*z*); be that as it may, the resolution of the Star Chamber was to fine and imprison him; and Sir Edward proposed, that he should pay double the value of his embezzlement, which reached 50,000 *l.* but the Chief Justice Hobart, thinking 100,000 *l.* too great a forfeiture, suggested the sum of 30,000 *l.* in the stead of it, with a sentence of imprisonment until the fine should be discharged. This alteration was

(*u*) Rapin's England, vol. ii. p. 192.

(*x*) Bacon's Works, vol. vi. p. 226.

(*y*) Rapin's England, vol. ii. p. 192. Stephens, p. xlvii.

(*z*) Ibid.

considered reasonable, and was adopted by the Court (*a*). The Chancellor of the Exchequer (*b*), and Mr. Secretary Naunton, concurred in the more harsh sentence; and it is but just to the memory of its author to quote here an observation of Naunton, who wrote, that though himself with the two others were traduced as merciless men, yet that since he never saw the Lord Hobart's rule take place respecting less offenders, he knew no reason why it should be extended to greater (*c*). Severe, however, as the judgment might have been which was at first submitted, it cannot be denied that the eminent person, of whom we are writing, was most fully qualified for a discussion of this kind; he had turned his attention in particular to the royal finances, and it is not impossible but that he had himself at one time cherished hopes of holding the white staff. To confirm this, a letter, dated Feb. 1615, from Bacon to the King, may be brought forward. Among other reasons for postponing the disgrace of the Chief Justice, it was urged, that the thoughts of that Judge were employed upon

(*a*) Bacon's Works, Lond. 1819, vol. v. p. 522. Stephens, pp. xlvii, xlviiii.

(*b*) Sir Fulke Greville.

(*c*) Stephens, p. xlviiii.

the treasury and the repair of the revenue ; and, “ if I might speak it,” adds the writer, “ as I think it were good his hopes were at an end in some kind,” (probably pointing to the Chancellorship, which Bacon coveted for himself), “ so I could wish they were raised in some other (*d*).” And after Coke had been removed he was not remiss in searching for the cause of the alleged deficiencies in the Exchequer ; we are thus reminded of his diligence by his old adversary : “ Mr. Chancellor imagines well, Coke seeks and beats over, as well where it is not, as where it is ; Secretary Naunton forgets nothing (*e*).”

In the next year, 1620, another person who had been opposed to Sir Edward, was subjected to the scrutines and punishments of the Star Chamber. Sir Henry Yelverton, the King's attorney, had introduced some clauses into a charter, then lately granted to the city of London, which, it is said, had not been warranted by the Crown, and as the privileges were deemed exorbitant, the city was required to surrender the patent, and Sir Henry ordered to make a due submission (*f*). Both these

(*d*) Bacon's Works, Lond. 1819, vol. v. p. 381.

(*e*) Id. p. 502.

(*f*) Stephens, p. xvii.

humiliations were complied with, yet the attorney's answer was held unsatisfactory, and informations were issued against himself, the Mayor, and the Recorder (*g*). When the cause came before the Judges, he again tendered the most ample concessions, and earnestly entreated that the King might be made acquainted with his contrition before sentence was given against him (*h*). Sir Edward Coke, the Chief Justice, and some others, opposed this request; but the Duke of Lenox and the Earl of Pembroke interposed so strongly in his favour, that his prayer was granted, and, as Stephens asserts, to the great satisfaction of the assembly (*i*). Nevertheless, so powerful were the enemies of this unfortunate lawyer, that they prevailed on King James to remit the cause. On the 8th of November the accusations against him and his excuses were fully heard; but although he stood unimpeached in his integrity, and no inconvenience had resulted from his errors, it was judged proper, (at least such was the colour given), to punish so serious a breach of trust in a ministerial officer of his rank; on which Sir Edward Coke, who might have acted with

(*g*) Bacon's Works, vol. v. p. 528.

(*h*) Cabala, Lond. 1663, p. 410.

(*i*) Stephens, p. xvii.

more charity, began a long and bitter speech, which he wound up with a proposition to fine the defendant 6,000 *l.* to deprive him of his office, and to imprison him in the Tower during the royal pleasure. The penalty was moderated to 4,000 *l.*; but the rest of Coke's sentence was confirmed (*k*).

No doubt the marked rigour which was displayed on the arrangement of this affair, gave rise to many conjectures and bursts of feeling highly unfavourable to Sir Edward's religious character. There must have been persons who had not forgotten the last days of Essex and of Raleigh, who were prepared to recognize the bitter advocate in the unrelenting judge. In the case then instantly before the public, it could not have escaped remembrance that Yelverton had but recently effected a reconciliation between the person who had so sternly treated him, and the nearest relatives of that man; that the storm which threatened to separate the husband and wife, the father and daughter, had been allayed by a kind and judicious interference, thus indifferently requited. To place matters in their true light, it may be urged, that Coke regarded the attorney as a creature

(*k*) Stephens, p. xvii.

of Lord Verulam, attributing his late act rather to an earnest solicitude for the welfare of his patron, who was then tottering on his high seat, than to personal kindness for himself; that a forced courtesy to his wife, fleeting and unstable as it was, could scarcely leave a trace of pleasing recollections; that, at the best, he was an inflexible admirer of forms; and could neither brook innovation nor remissness; that he was a disappointed old man, torn from a station which he filled with an unrivalled capacity, and foiled in his hopes of promotion, for which he had laboured, and which he well merited. His most eager apologist will not attempt, perhaps, to justify the keenness of his reprehensions; but the most careless reader, while he condemns those austerities which others have declaimed against, cannot persuade himself to say that there has been yet a blot upon his integrity.

About this time he was constituted High Steward of Cambridge University; an honour which he held till 1628, when Henry Montague, Earl of Manchester, succeeded him (*l*).

Towards the close of this year the expediency of calling a parliament was agreed on,

(*l*) Cole's MSS. in the British Museum, vol. xxxiii. p. 440.

through the advice of Lord St. Alban's, the Chancellor, on which the assistance of Sir Edward was required and amply given. His counsel was asked, in the first instance, by the King's express command, who respected his seniority (*m*); and we find him included in all conferences of state on the management of the elections (*n*). His name also is subscribed to a certificate sent from York House to the Marquis of Buckingham, which contained precedents for summoning Princes of Wales to parliament (*o*). He was returned member for Liskeard, in Cornwall (*p*). It is probable that he was the more ready to meet the wishes of the Court at this juncture, since Bacon recommended the course of election to be carried on without "packing or degenerating arts;" but rather according to "true policy (*q*)."

Age, experience and wisdom had now distinguished the great subject of this Memoir among his contemporaries; when therefore, far from bowing down to courtly favour with servility, he spoke at once for freedom of de-

(*m*) Bacon's Works, vol. v. p. 531.

(*n*) Id. p. 536.

(*o*) Id. p. 544.

(*p*) Willis's Not. Parl. vol. i. p. 177, Lond. 1750.

(*q*) Bacon's Works, vol. v. p. 531.

bate and adherence to the laws, it is not surprising that he was heard with admiration by the rising patriots, or regarded by the courtiers with dread and dislike. He commenced his career, however, as a privy counsellor, by asking a conference of the Lords on the subject of Popish recusants(*r*); but in a few days afterwards, when the House was debating upon that subject, he took occasion to recommend the discussion of grievances, observing, that no proclamation could withstand an act of parliament, and he moved for a committee of the whole House to consider of the wrongs to be redressed, amongst which he intimated that the King's expenditure was not the least (*s*). The motion was agreed to. On the 16th, a Mr. Sheppard ventured to ridicule a bill which was intituled, "An Act for the keeping of the Sabbath:" he was expelled his place for this indiscretion; and we cannot forbear quoting a few remarks which Sir Edward dropped, as they indicate his due sense of religion and knowledge of propriety. "Whatsoever hindereth the observation of the sanctification of the Sabbath is against the Scripture. It is in religion as in other things, if a man go too much on the

(*r*) Parl. Hist. vol. i. p. 1182.

(*s*) Id. p. 1187.

right hand, he goes to superstition; if too much on the left, to profaneness and atheism; and take away reverence, you shall never have obedience. If it be permitted to speak against such as prefer bills, we should have none preferred (*t*).”

His next efforts in the House were to condemn monopolies (*u*), and to explain the reason of a money scarcity which prevailed at that time (*x*), on which occasions he fully evinced a mind capable of embracing state transactions as well as matters of law. On the 1st of March he made some singular remarks: “There are,” said he, “in my observation six kinds of men that never thrive or prosper. 1. The alchymist, for ‘*omne vertitur in fumum*’ with him. 2. The monopolizer, for he engrosseth to himself what should be free for all men. 3. The promoter, who, for the most part, lives upon the sport of poor men. 4. The concealment-monger, or he that gets concealment. 5. The depopulator, who turns all out of doors, and keeps none but a shepherd and his dog. 6. The new projector, who is lately started up (*y*).”

(*t*) Parl. Hist. vol. i. pp. 1191, 1192.

(*u*) Id. p. 1193.

(*x*) Id. p. 1194.

(*y*) Id. p. 1198.

We next find him resisting a request by the Lord's house, that some members of the Commons might be sworn in the case of Sir Giles Mompesson (*z*). The sense of the assembly was decidedly with him; but as the members in question were willing to submit to an oath, the objection was waved (*a*). Shortly afterwards the misconduct of Lord Chancellor Bacon transpired, and the task of drawing up a charge against him by two complainants, Aubrey and Egerton, was confided to Sir Dudley Diggs, Sir Robert Phillips, Sir Edward Coke, and Mr. Noy (*b*); but the great man acknowledged his guilt, so that we have no further interference recorded on the part of Sir Edward in this affair, except a few incidental suggestions, which were not conceived with asperity or in triumph.

In a conference on the 29th of May, he told the Lords that unless the parliament were allowed a longer sitting, a country farmer would scarce know the difference between an adjournment and a prorogation (*c*); and when the House broke up on the 4th of June following, he

(*z*) Accused of grievances by the patent of Inns.

(*a*) Parl. Hist. vol. i. p. 1206, 1207.

(*b*) State Trials, vol. i. p. 377.

(*c*) Parl. Hist. vol. i. p. 1265.

recited the collect for the King and his issue with tears in his eyes, adding to it, "and defend them from their cruel enemies (*d*).” It seems that he had presided at committees during the session, especially at one for the consideration of monopolies (*e*). He was certainly at this time the ostensible leader of the opposition; if he had been suspected of inability as a general reasoner, the experience of this session was sufficient to satisfy the most scrupulous of his universal capacity, and the King’s ministers found a formidable antagonist in a quarter whence they least expected opposition.

The learned and judicious Camden speaks very favourably of Coke, for exalting the acts of the legislature above the royal proclamations. "Edward Coke," to use his own words, "bore himself this day with the truest patriotism, and taught that no proclamation was of weight against parliament (*f*).

It was in the October of this year that Archbishop Abbot, while hunting in his park, most unhappily killed a man with his cross-bow: on this emergency Lord Coke’s opinion was asked,

(*d*) Parl. Hist. vol. i. p. 1295.

(*e*) See proceedings against Lord St. Alban, Lond. 1620, in a collection of Tracts in the British Museum. Bacon.

(*f*) Camd. Ann. Jac. p. 67.

whether a bishop might hunt in a park by the laws of the realm? It was answered, with much learning and acumen, "he may hunt by the laws of the realm by this very token, that there is an old law that a bishop when dying is to leave his pack of hounds (called *muta canum*) to the King's free use and disposal (*g*)."

The parliament met again in November, but the violent debates and remonstrances which took place on their earliest deliberations, induced the King to dissolve it on the 6th of the ensuing January. Yet, although the time was short, Sir Edward's conduct was marked for activity and decision: he strenuously supported the petition in behalf of religion and liberty; he defended the expressions of the House which had styled their privileges "ancient inheritances;" he urged the continual mention of general grievances; and when Sir Edwin Sandys was committed, he was foremost to propose a sub-committee for the purposes of establishing freedom of speech, and considering every matter incident to the liberties and privileges of the House (*h*). This latter debate ended in a protestation, which James tore from the journal

(*g*) Collier's Ecclesiastical History, vol. ii. p. 722.

(*h*) Parl. Hist. vol. i. pp. 1310. 1321. 1330. 1349. 1359. 1360.

book of the Commons with his own hand (*i*), and almost immediately checked the spirits which had so disquieted him, by a dissolution of their sittings (*k*).

It cannot be expected that so energetic a patriot as Coke should have escaped the vengeance of offended royalty; on the 27th of December, he, with many others, among whom we find John Selden, was sent to the Tower (*l*), his chambers were broken open, and his papers delivered to Sir Robert Cotton and Mr. Wilson for examination (*m*).

In a book, attributed to Mr. d'Israeli, entitled "An Inquiry into the literary and political Character of James I." it is humourously related, that when Coke came to his new lodging, which had once been a kitchen, he found written on the door—

"This room has long wanted a Cook (*n*)."

The same author tells us, that Lord Arundel was sent to the illustrious prisoner with information that the King had given him permission

(*i*) Franklyn's Annals, p. 66.

(*k*) Parliamentary History, vol. i. p. 1366.

(*l*) Rushworth, vol. i. p. 55. Rapin's England, vol. ii. p. 212. Camd. Ann. Jac. p. 76. Franklyn, p. 66.

(*m*) Camd. Ann. Jac. p. 76.

(*n*) D'Israeli, p. 125.

to consult with eight of the best learned in the law on his case; but that Coke returned thanks for the monarch's attention, and said " he knew himself to be accounted to have as much skill in the law as any man in England, and therefore needed no such help, nor feared to be judged by the law. He knew his Majesty might easily find, in such a one as he, whereby to take away his head, but for this he feared not what could be said (o)." "I have heard you affirm," Lord Arundel replied, " that, by law, he that should go about to withdraw the subjects hearts from their King was a traitor." Sir Edward answered, " That he held him an arch-traitor (p)." These, as well as many other anecdotes which the author just mentioned has published concerning this great man, are said by him to have been extracted from manuscript letters of the times (q).

On the day of the dissolution of parliament, Coke was summoned before the Privy Council; but if any had imagined within themselves that he was a subject for alarm, or to be daunted by threats, they had ill calculated the powers of his mind: at a loss for substantial accusations his enemies resorted to the old

(o) D'Israeli, p. 126. (p) Ibid.

(q) Id. p. 125.

artifice of questioning his conduct in transactions which had long gone past, and so he was charged with concealing some examinations in the Earl of Somerset's case, and substituting false in their room (*r*). This improbable story afforded a pretence for his further confinement, during which, it seems, Prince Charles, who, faulty as he might have been, has never been reproached for unkind feelings as a man, interceded for his release; but the King answered, "he knew no such man as Edward Coke." The Prince renewed his appeal for Mr. Coke, but his Majesty denied all knowledge of that name: "he knew there was one Captain Coke, the leader of the faction in parliament (*s*)." Nevertheless he was set at liberty in a short time, but his rank as a privy counsellor was annihilated, and James declared that "he was the fittest instrument for a tyrant that ever was in England;" and yet, as Wilson writes, he called the King's prerogative a great overgrown monster; and, the author adds, how can this agree? Unless because the King would not take his counsel, he hanged himself on the other side (*t*). The writer goes on:

(*r*) *Camd. Ann. Jac.* p. 77.

(*s*) *D'Israeli*, pp. 125, 126.

(*t*) *Wilson's Life and Reign of James I.* p. 191.

whether the King had cause to say the one, I know not; but he (Coke), it seems, found cause enough to say the other (*u*). His conduct, however, had excited so much spleen, that the council debated on the expediency of excluding him from the benefit of a general pardon to be passed about that time, either by introducing a bill for that purpose, or by exempting him by name from its privileges (*x*).

In the early part of the year 1623, another parliament was summoned to meet at Westminster, and Sir Edward, who still held the recordership of Coventry, took his seat as member for that city (*y*). We do not, however, find him so active in the cause of liberty during this session; indeed, the debates in the House had generally assumed a more pacific character, and it may be said with some truth, that Buckingham had at this time triumphantly engrossed the counsels of the kingdom. Yet the spirit which prompted this determined foe to favouritism was not subdued, as we shall distinctly prove hereafter, when the author of the celebrated Petition of Rights is mentioned. The only matter of note which engaged him was

(*u*) Wilson's Life and Reign of James I. p. 191.

(*x*) Franklyn's Annals, p. 66.

(*y*) Willis's Not. Parl. vol. iii. p. 195.

the impeachment of Lionel Cranfield, Earl of Middlesex, which took place in April; and the duty of opening the first charge against that nobleman for bribery fell to his share (z). The substance and arrangement of his speech savours much of his youthful energies, blended with the experience of age. It is well known that the Lord Treasurer was fined 50,000 *l.* and sentenced to other severe punishments.

It is not a little curious to find the same man, whose voice had been lifted up so high in his own land concerning grievances, commissioned by his Master to redress mischiefs in another country. It is clear that the appointment was intended to operate as a temporary banishment, both from a custom which the court adopted of sending away the disaffected under a mask of confidence, and from the impression which Lord Coke himself felt upon the subject, and which he afterwards promulgated in the House of Commons (a). Nevertheless, as he found that the royal authority was absolute in this respect, he was not disposed to offer any resistance to the mandate which required his exile (b). He, with some others, was empowered

(z) Parliamentary History, vol. i. p. 1418.

(a) See *post.*

(b) See *post.*

by the commission to inquire into the state of Irish churches, to investigate the causes which had occasioned a decay of religion in Ireland, to ascertain the springs of trade and commerce there, and to propose any measures of amendment which might be deemed advisable (c). But he did not fulfil this trust, for although other persons of the same sentiments with himself are said to have gone, he remained at home (d).

We may reasonably suppose that he had now retired for a time to his house at Stoke, and that he continued in a state of ease until the accession of Charles I. Doubtless he was employing much of this leisure in preparing his Commentary upon Littleton, which was published in 1628; and if his advanced life be for a moment considered, his appetite for knowledge and capability to yield instruction cannot be too much admired. But his labours in the senate were far from being accomplished, he was again returned for Coventry in the quality of Recorder (e), and began his new career with a fresh struggle for liberty. In a debate on the motion for supply, which was made in

(c) Rymer's *Fœdera*, tom. xvii. p. 531.

(d) *Biog. Brit.* p. 1395.

(e) *Willis's Not. Parl.* vol. iii. p. 205.

August 1628, a vast enumeration of political evils were summed up by Sir Edward, who moved for a committee to consider those, with any other mischiefs which might be complained of. However no resolution was adopted on that day (*f*); but on a message from the King a few days afterwards, respecting his supply, Coke declared it to be *malum consilium* to pass more subsidies when the House had already given two; and he offered to give 1,000 *l.* out of his own estate rather than make a further grant at that time (*g*). A committee was then proposed and agreed to, but the Commons still postponing their subsidy, the King became offended, and dissolved the parliament (*h*).

Here was another interval for rest and relaxation, but it was soon determined: the second parliament of King Charles met on the 6th of February 1626 (*i*), and to silence an orator so powerful as Coke, recourse was had to an expedient, as notable as it was unprecedented. He, who had presided at the assizes as Chief Justice of England, was pricked down for high sheriff of Buckinghamshire (*k*), and

(*f*) Parliamentary History, vol. ii. p. 11.

(*g*) *Id.* p. 35. (*h*) *Id.* p. 36. (*i*) *Id.* p. 38.

(*k*) Whitelock's Memorials, p. 3. History of the House of Stuart, p. 82. Franklyn's Annals, p. 113.

thus it became a portion of his duty to attend upon the Judges on their circuit. This election was not only a mortifying insult to so eminent a person, but it also promised much inconvenience to any man of seventy-seven years, which was Coke's age at this juncture ; he therefore bestirred himself to be relieved from the office. But knowing that he had not any reason to expect favour from the Court, and disdaining probably an appeal to their generosity, he took several legal exceptions to the oath ; the chief of which was, that the sheriff being bound to prosecute Lollards, the best Christians might thereby come into jeopardy (*l*). He also objected, that some parts of the oath were not authorized by any statute, and cited a maxim, that none except the parliament can appoint an oath (*m*). This matter was referred to the Judges, who reported to the Council, that they saw no reason to alter the oath except in the first article propounded concerning Lollards. It was therefore resolved to indulge the new sheriff by an order, that the article condemned by the Judges should in future be omitted in all oaths to be adminis-

(*l*) Lloyd's State Worthies, vol. i. p. 111.

(*m*) Complete Sheriff, 8vo. Savoy, 1710, p. 17.

tered on these occasions (*n*); and thus the application terminated. The object which the Duke of Buckingham had in view was indeed too important for a concession; he had been at the pains to have two other strenuous members of the opposition, Sir Robert Phillips and Sir Thomas Wentworth, nominated to a like office with Coke in Somersetshire and Yorkshire (*o*); to silence the scruples of one was, therefore, to ensure his triumph over all three (*p*).

But the obnoxious shrievalty was a burthen to be sustained for one year only; the same artifice could hardly be again employed by those who hated this old senator, and who possibly calculated on his speedy decease (*q*); in truth, the umbrage which had been given him might the rather have excited a strong prejudice in his favour, since people in general are peculiarly ready to espouse the cause of those whom they believe to be oppressed.

(*n*) Rushworth, vol. i. p. 198; and see Fuller's Worthies, Bucks, p. 141.

(*o*) Coke's Detection, vol. i. p. 210.

(*p*) See the Complete Sheriff, 8vo. Savoy, 1710, p. 11, which proves that a high sheriff cannot be a parliament man.

(*q*) Complete Sheriff, p. 11, where it is said that the king may exercise a dispensing power on these occasions; and see stat. 23 Hen. VI. c. 7.

Accordingly he was elected a representative for Buckinghamshire in 1628 (*r*), when he prepared to achieve a fresh reputation by his vigorous efforts in defence of the constitution. He was again the head of the oppositionists, and his labours were opened with this memorable sentence, "While we have time, let us work for good." He expressed himself ready to grant a supply, but he took occasion to quote "a noble record," (we use his own exclamation), such as it cheered him to remember: "Loans against the will of the subject are against reason and the franchises of the land, and they (the parliament of those days) desire restitution." 26 E. 3 (*s*). Sir Edward showed some alarm by reason of the judgment given in the King's Bench against the refusers of the loan, intimating a doubt whether perpetual imprisonment might not follow upon such a decision (*t*); but when Hyde, C. J. delivered his opinion in the House of Lords as to the propriety of bailing those persons, he referred, with much address, to the practice of his

(*r*) Willis's Not. Parl. vol. iii. p. 218.

(*s*) Rushworth, vol. i. p. 501. Franklyn's Annals, p. 244. Parliamentary History, vol. ii. p. 237.

(*t*) Rushworth, vol. i. p. 501. Franklyn, p. 249. Parliamentary History, vol. ii. p. 246.

predecessor, saying that they, the Court, never bailed any committed by the King, or his Council, till his pleasure were first known; and thus did the Lord Chief Justice Coke in Reynard's case (*u*).

In the next affair we have an explication of the commission to Ireland, which was looked upon as a political banishment: On the 2d of April 1628, the House of Commons, always eager to postpone every debate for their favourite subject, the discussion of grievances, proceeded to examine into the evils of confinement, and of designation for foreign employment. Coke spoke thus on the matter: "No restraint, be it never so little, but is imprisonment; and foreign employment is a kind of honourable banishment. I myself was designed to go to Ireland, I was willing to go; and hoped, if I had gone, to have found some Mompessons there." He then showed, from precedents, that land and offices might be seized in case of refusal; but that the offending parties had never been committed. It was resolved, that no freeman ought to be confined by any command from the King or Privy Council, or any

(*u*) Parliamentary History, vol. ii. p. 292. Franklyn, p. 315.

other, unless it be by Act of Parliament, or by other due course or warrant of law (*x*).

The far-famed Petition of Right, which may be said to have thriven under the especial tutelage of this great man, was now soon to be submitted to the approbation of the three estates.

Very early in April a conference with the Lords was agreed upon, to induce them to join in a petition to the King for the purpose of ascertaining the rights and liberties of the subject; and the part assigned to Sir Edward was the application of reasons to the laws and precedents which had been quoted in favour of the negotiation. He executed this task at much length and with considerable talent (*y*), yet his speech was not free from the distasteful pedantry which he had imbibed from the customs of early years. However, his efforts had gained him the esteem and veneration of his party; he was engaged at a second conference on the same subject (*z*), and replied to the arguments of Mr. Attorney-General Heath

(*x*) Rushworth, vol. i. p. 523. Franklyn's Annals, p. 257. Parliamentary History, vol. ii. p. 257.

(*y*) Rushworth, p. 532. Franklyn, p. 262. Parliamentary History, vol. ii. p. 266.

(*z*) Parliamentary History, vol. ii. p. 294.

against the petition (*a*). The result of this affair was, that King Charles apprised the Commons, through his secretary, of his willingness to concede them a bill in confirmation of Magna Charta, without additions, paraphrases or explanations; the royal word was further pledged, that no future occasion for complaint should arise (*b*). Nevertheless, on the next day, Mr. Secretary Cooke pressed the members on the faith which had been guaranteed to them; and, making the loss of time a colour for his recommendation, he proposed that the House should be content with the King's assurances, insinuating his opinion with many soft and honied expressions. Whilst many persons, persuaded by this rhetoric, were intimating their assent to wave the bill, the voice of Sir Edward Coke was heard in strong opposition to such a proceeding (*c*). Considering the success which his expostulations ensured, the respect which his talents had gained for him, and which hastened his triumph, the importance of the subject on which he was declaiming, and the very forward season of his life, which might almost foretell to us that this would be one of his last efforts, we do not for-

(*a*) Parliamentary History, vol. ii. p. 323.

(*b*) Id. p. 347.

(*c*) Id. p. 348.

bear giving his remonstrance at large : “ Was it ever known,” said he, “ that general words were a sufficient satisfaction to particular grievances ; was ever a verbal declaration of the King, *verbum regis*? when grievances be, the parliament is to redress them. Did ever parliament rely on messages ? They put up petitions of their grievances, and the King ever answered them. The King’s answer is very gracious ; but what is the law of the realm ? that is the question. I put no diffidence in his Majesty, but the King must speak by record, and in particulars, and not in general. Did you ever know the King’s message come into a bill of subsidies ? All succeeding Kings will say, ‘ Ye must trust me as well as ye did my predecessors, and trust my messages ;’ but messages of love never came into a parliament. Let us put up a PETITION OF RIGHT ; not that I distrust the King, but that I cannot take his trust but in a parliamentary way (*d*).” This famous ordinance was finished in a few days, and delivered to the Lords for their concurrence. There was a conference, which was managed by Sir Edward ; and on the 12th of May the

(*d*) Parliamentary History, vol. ii. p. 348. Rushworth, vol. i. p. 658. Franklyn’s Annals, p. 287.

petition was returned with additions by the Upper House (e). The principal alteration was, in effect, a proviso that the sovereign power should be left entire in the Crown (f).

But the House instantly took the alarm, and Coke boldly declared that the addition trenched on all parts of their petition, turning all about again (g). The Lords gave reasons for their emendation (h), but they were prevailed upon to give it up (i); and after a slight attempt to evade the last solemn sanction (k), the petition, and the answer “*Soit droit fait comme il est désiré,*” were recorded (l).

We must now go back a few days to introduce Sir Edward’s denunciation against the Duke of Buckingham. Previously to the final ratification of their petition, the King sent to the Commons, forbidding them to meddle with affairs of state (m). A warm debate arose upon this intimation, in the progress of which Coke took a part; and although the Speaker had

(e) Rushworth, p. 558. Franklyn, p. 287.

(f) Rushworth, p. 561. Franklyn, p. 289.

(g) Rushworth, p. 562. Franklyn, p. 289.

(h) Rushworth, p. 564. Franklyn, p. 290.

(i) Rushworth, p. 585. Franklyn, p. 301.

(k) Rushworth, p. 590. Franklyn, p. 304.

(l) Parliamentary History, vol. ii. p. 409, 410.

(m) Rushworth, p. 605. Franklyn, p. 324.

started from his chair almost at the commencement, exclaiming that he had been commanded to interrupt any Member who should asperse a Minister of State (*n*); Sir Edward very resolutely said, " I think the Duke of Buckingham is the cause of all our miseries, and that till the King be informed thereof we shall never go out with honour, or sit with honour here; that man is the grievance of grievances; let us set down the causes of all our disasters, and all will reflect upon him (*o*). " Rushworth has inserted a private letter, which recites this ebullition in a very curious manner. The relator, after observing that the speeches of those who first addressed the House were mingled with tears, tells us that " Sir Edward Coke, overcome with passion, seeing the desolation likely to ensue, was forced to sit down, when he began to speak through the abundance of tears;" and that when the Speaker had absented himself under the plea of illness, but in fact that the House might give vent to their feelings more freely, " Sir Edward Cook told them he now saw God had not accepted of their humble and moderate carriages and fair proceedings; and the rather because he thought they

(*n*) Rushworth, p. 606. Franklyn, p. 325.

(*o*) Rushworth, p. 607. Franklyn, p. 325.

dealt not sincerely with the King and with the country in making a free representation of the causes of all these miseries, which now he repented himself, since things were come to that pass, that he did it not sooner, and therefore he not knowing whether ever he should speak in this House again, would do it now freely, and there protested that the author and cause of all those miseries was the Duke of Buckingham, which was entertained and answered with a cheerful acclamation of the House, as when one good hound recovers the scent the rest come in with a full cry, &c. (*p*).” On the 12th of June, a bill was passed, granting five subsidies to the King, which Sir Edward Coke carried up to the Lords with an attendance of nearly all the Commons (*q*). The next public document which drew the attention of parliament, was a commission directed to several Lords and Privy Counsellors for the raising of money. This, Coke insisted, was merely for the end of procuring excises, which, he said, were impositions ; and

(*p*) Rushworth, vol. i. p. 609, citing a letter of Mr. Allured's to old Mr. Chamberlain of the Court of Records. Parliamentary History, vol. ii. pp. 404. 418. Whitelock's Memorials, p. 10.

(*q*) Parliamentary History, vol. ii. p. 410.

at a conference with the Upper House, he required that this commission should be cancelled (*r*). It was afterwards agreed that this obnoxious paper should be included in a general remonstrance which the Commons were preparing (*s*), and which they presented to the King with the title, "The Commons Remonstrance against the Duke (*t*)."¹ It is said, that this was the last public service in which Coke was concerned (*u*). The session was terminated very shortly afterwards; and in the debates which took place at the next sitting of the House, we do not find his name mentioned. Nevertheless, it appears that he did not retire from his duties as a member of the legislature until the dissolution, which took place in March 1629, when he again betook himself to the quiet and retirement of Stoke. It may not be improper to notice in this place, as we have now closed the record of his parliamentary career, the severe reproach of Lord Clarendon, who takes occasion, while lamenting the ebbs and floods of popular councils, to instance

(*r*) Rushworth, vol. i. pp. 614, 615, 616. Franklyn, pp. 328, 329.

(*s*) Rushworth, p. 616. Franklyn, p. 329.

(*t*) Rushworth, p. 619. Franklyn, p. 330.

(*u*) Biog. Brit. p. 1396, note X. from p. 1395.

the Duke of Buckingham as a man once blasphemously styled by Sir Edward the Saviour of the nation ; but soon by the same breath thrown down to the depth of calumny (*x*). A better answer to this invective cannot too well be found than that which the writer of the very able memoir of Coke, in the *Biographia Britannica*, has already afforded us. He refers us to the last parliament of King James, when the Duke of Buckingham laboured to show that he was a mean of bringing the Prince back from Spain, and thus of hindering the proposed alliance between the countries, which was highly unpopular at that time both at court and amongst the people (*y*).

His services being no longer in request, covered with honour, and mellowing in years, Sir Edward returned to his country seat, where he piously awaited the change which he knew could not be far distant : yet he lived nearly six years more, displaying a remarkable instance of temperance and regularity for the benefit of posterity. And it must be remembered, that he had not the fortune to retire into the bosom of a kind and cherishing family ; for the indecent anticipations of Lady Hatton,

(*x*) *History of the Rebellion*, Oxford, 1704, vol. i. p. 7.

(*y*) *Biog. Brit.* p. 1396.

which have already been mentioned, show sufficiently that he was separated from his wife. Neither did he enjoy a perfect freedom from his high enemies at court; for Sir Francis Windebanke, a friend of Archbishop Laud, when he was even on the death-bed, came to his house by an order of council to search for seditious and dangerous papers. His Comment upon Littleton, written with his own hand, with upwards of fifty manuscripts, were carried off by the intruder; and, which was of inestimable consequence to some part of his family, his last will was removed, in which he had been making provision for his younger grandchildren. These books and papers were detained for seven years, when a son of Sir Edward, in 1641, moved the House of Commons that they might be delivered up to Sir Robert Coke, his heir. The motion was allowed, and the King, on application, directed the return of them; and such as could be found were accordingly surrendered, but the will was never again heard of (z). It is but just to the memory of Laud to add, that this act of plunder was not attributed to him by the author of the foregoing narrative (a).

(z) Coke's Detection, vol. i. p. 354.

(a) Id.

Coke died on the 3d of September, 1634, at Stoke Pogeys (*b*), at the age of eighty-five, though authors are not agreed in this respect (*c*). He was buried at Titeshall Church in Norfolk, as his epitaph, which we transcribe at length, announces:

DEO OPTIMO MAXIMO
HÆ EXUVIÆ HUMANÆ EXPECTANT RESURRECTIONEM PIORUM.
HIC SITUS EST
NON PERITURI NOMINIS EDOUARDUS COKE EQUES AURATUS,
LEGUM ANIMA, INTERPRES, ORACULUM NON DUBIUM
ARCANORUM, PROMI-CONDUS MYSTERIORUM,
CUJUS FERE UNIUS BENEFICIO
JURISPERITI NOSTRI SUNT JURISPERITI.
ELOQUENTIÆ FLUMEN, TORRENS, IULMEN,
SUADE SACERDOS UNICUS.
DIVINUS HEROS.
PRO ROSTRIS ITA DIXIT
UT LITERIS INSUDASSE NON NISI HUMANIS,
ITA VIXIT, UT NON NISI DIVINIS
SACERRIMUS INTIMÆ PIETATIS INDAGATOR.

(*b*) Croke's Reports, vol. iv. p. 375. Whitelock's Memorials, p. 22. Echard's Hist. of England, vol. i. p. 456. Peck. Des. Cur. lib. xiv. p. 15.

(*c*) All accounts agree, that Coke was born in 1549 or 1550, and that he died in 1634; although, therefore, the exact date of his birth may not be ascertained, it is as clear that he was more than eighty-two years old, which is the age inscribed on his epitaph, and which has been copied by Echard, as that he had reached eighty-five years, if he was born on any day before the 3d of September 1549.

INTEGRITAS IPSA.

VERE SEMPER CAUSÆ CONSTANTISSIMUS ASSERTOR,
NEC FAVORE, NEC MUNERIBUS VIOLANDUS.

EXIMIÈ MISERICORS,

CHARIOR ERAT HUIC REUS QUUM SIBI,

(MIRACULI INSTAR EST)

SICCOCULUS SEPE ILLE AUDIIT SENTENTIAM IN SE PROLATAM,
NUNQUAM HIC NISI MADIDOCULUS PROTULIT.

SCIENTIÆ OCEANUS,

QUIQUE DUM VIXIT, BIBLIOTHECA VIVA,

MORTUUS DICI MERUIT BIBLIOTHECA PARENS,

DUODECEM LIBERORUM TREDECIM LIBRORUM PATER.

FACESSANT HINC MONUMENTA,

FACESSANT MARMORA,

(NISI QUOD PIOS FUISSE DENOTABINT POSTEROS)

IPSE SIBI SUUM EST MONUMENTUM,

MARMORE PERENNIVS,

IPSE SIBI SUA EST ÆTERNITAS.

DEDICATED TO THE MEMORY OF

S^r EDWARD COKE, Knight, a late Reverend JUDGE,

BORN AT MILEHAM in this County of NORFF:

EXCELLENT in all LEARNING DIVINE and HUMAN, That for his

OWNE, This for his COUNTRY'S good, especially in the knowledge

And practice of the MUNICIPAL LAWEs of this KINGDOME,

A FAMOUS PLEADER, A SOUNDE COUNSELLOR.

IN His younger years RECORDER of the Cities of NORWICHE

And LONDON, next SOLLICITOR GENERALL to QUEENE

ELIZABETH, and SPEAKER of the PARLIAMENT in the 35

Yeare of hir Raigne. Afterwards ATTORNEY GENERALL to

The same QUEENE, as also to hir Successor KINGE JAMES.

To both a faithfull SERVANT for their Mat^{ties}. for their Safetye.

By KINGE JAMES constituted CHEIF JUSTICE of both BENCHES

Successively. IN both A JUST, IN both an EXEMPLARY JUDGE.

ONE of his Ma^{ties}. most honorable PRIVIE COUNSELL. As also of
COUNSELL TO QUEENE ANNE, and CHIEFE JUSTICE IN EIRE
Of all HIR FORESTS CHASES And PARKES
RECORDER of the CITTYE of COVENTRYE And HIGH STEWARD
Of the UNIVERSITYE of CAMBRIDGE, Whereof He was sometime
A MEMBER IN TRINITYE COLLEDGE.

He had two WIVES, By BRIDGET HIS first WIFE (one of the
Daughters and Coheires of JOHN PASTON Esq.) He had ISSUE Seaven
Sonnes and three Daughters. And by the LADY ELIZABETH HIS second
WIFE (One of the Daughters of the RIGHT Honorable THOMAS late Earle
Of EXETER) He had ISSUE two Daughters.

A CHAST HUSBAND, A PROVIDENT FATHER.

He crowned HIS PIOUS LIFE with as PIOUS and
Christian Departure at STOKE POGES in the
COUNTY of BUCKINGHAM ON WEDNESDAYE
The third day of SEPTEMBER in the yeare of
OUR LORD M.DC.XXXIII. And of HIS AGE LXXXIII.

HIS LAST WORDES

THY KINGDOM COME, THY WILL BE DONE.

Learne READER to live so that thou mayst so die.

M. S. P. L. Arm. Norroy (*d*).

Notwithstanding the various demands on Sir Edward's fortune during his life, it seems that he died possessed of very considerable property (*e*). It cannot be expected that a list of his landed estates should be furnished by his biographer; it may suffice to mention that he was lord of the manors of Tittlehale, Dunham Parva, and Holkham; that he was master of Longford in Derbyshire, of God-

(*d*) Le Neve's Mon. Angl. 1600—1649, pp. 151—155.

(*e*) Fuller's Worthies, p. 250. Lloyd's Worthies, p. 110.

wick near Mileham, his birth place; of Stoke (*g*) in Buckinghamshire; of Beck Hall, and many other seats in Norfolk, which the reader will find particularly noticed in Blomefield (*h*).

The arms of the Judge were, Per pale, gules and azure, three eaglets displayed, argent; crest, on a chapeau, gules turned up, ermine; an ostrich, argent, with a horse-shoe in his beak, azure; supporters, two ostriches, argent, gorged and collared, with a ducal coronet; and are said to have been granted by Robert Cooke Clarencieux (*i*).

In the south window of the Inner Temple we have this inscription —

“ EDWARD COKE, knight, Chief Justice of England (*k*).”

Mr. Granger has enumerated several portraits of this learned Judge, the best of which is one by Houbraken (*l*). An excellent engraving of this head is to be found in Birch's Lives (*m*). There is another imposing repre-

(*g*) This place afterwards belonged to Sir Robert Vear. Le Neve's Mon. Angl. 1700—15, p. 53.

(*h*) Blomefield's Norfolk. Magna Britannia, vol. iii. pp. 298. 301.

(*i*) Blomefield's Norfolk, by Parkin, vol. ix. p. 240, (8vo. edit.). And see for the quarterings, id. lib. vol. x. pp. 69, 70. Dugd. Or. Jur. 186.

(*k*) Stowe's Survey of London, part iii. p. 276.

(*l*) Granger's Biographical Hist. vol. i. p. 265.

(*m*) Birch's Lives, vol. i. p. 66.

sentation of him in Dugdale, where he is pictured in his night-cap and trencher-cap after the termination of his judicial functions (i). Houbraken's likeness is said by Granger to have been in the possession of Robert Coke, esq.

He then mentions several others, as—

Sir Edward Coke, '*Prudens qui patiens*,' 1629. J. Payne, Sc. 4to. and said to have been copied from a print of him done before then by Simon Pass.

Edwardus Coke, &c. copied from the last. 4to. and another 12mo.

Edwardus Coke; six latin verses.

Sir Edward Coke; Loggan, Sc.

Edwardus Coke; R. White, Sc. h. sh.

Sir Edward Coke, &c.; J. Cooper, Exc. h. sh. mezz. (k).

There is also another portrait of him in Lyon's-Inn Hall.

Sir Edward Coke was of a comely person, which he adorned with neat clothing, for he frequently said that the outward neatness of our bodies might be a monitor of purity to our souls (l). His countenance was engaging (m).

(i) Dugdale, after his Index to Origines Juridiciales.

(k) Granger, vol. i. p. 266.

(l) Fuller's Worthies, Norfolk, p. 251.

(m) Ibid.

his voice powerful and commanding, his limbs were full of activity and vigour. He was a great economist of time, which he employed in regular and sober exercises, whence he had ever sufficient leisure to review the actions of his life. He delighted in cleanliness (*n*) and in early rising, profitable habits, which made his youth robust and old age vigorous. When the King's messenger reached his house with a royal mandate for his departure to Royston, his sons refused to allow their father to be awakened until his usual hour. At three in the morning Sir Edward rang a little bell, the signal for his servant's attendance, and the King's letter was then delivered (*o*).

In his private character he was thrifty and cautious, so that Bacon reproached him for dealing too closely with his tenants in Norfolk, and for his lack of charity (*p*). But Sir Francis was prodigal, and thoughtless of his pecuniary fortunes ; and, besides, the prudent courses of his rival could not but excite malevolence in the breast of one whose ambition had been so incontinently checked. That he was of a charitable disposition, appears from his liberal

(*n*) Fuller's Worthies, Norfolk, p. 251.

(*o*) Coke's Detection, vol. i. p. 86.

(*p*) Bacon's Works, Lond. 1819. vol. v. p. 406.

foundations ; and surely the man who leaves behind him a comfortable inheritance for his children, has acted a better part than he whose expences have deprived his offspring of their expected support.

The old maxim, *γνωθι σεαυτον*, was not lost upon him ; hence, his early practices of commanding his temper, and sustaining the calamities of life with patience. If his spirit on one or two occasions became overheated, these sallies were exceptions to the general conduct he adopted, and were hastened, perhaps, by a severe provocation. If his abuse of culprits be mentioned here to his dispraise, let us be careful to distinguish between public and domestic engagements ; for it was his custom to say, when vexed by adversaries, “ If another punisheth me, I will not punish myself ; ” so that, while he chose the motto, *Prudens qui patiens*, he gave an earnest in his behaviour that he held the adage sound.

He took a pleasure in temporary relaxations, so that he created a cheerful division of his day. In the highest term, he would always keep vacation for himself at his table ; not choosing, as Bacon well expresses it, to keep his bow always bent (*q*). Some hours he be-

(*q*) Fuller's Worthies, Norfolk, p. 251.

stowed on devotion, many on the studies which he professed, a few were necessary to satisfy the wants of nature. He carried into his closet an ardent love for the profession which he had chosen, a regard which he proudly owns in his writings, where he asserts with an honest zeal which it would become men of this or any other day to remember and appreciate, that none should pen Acts of Parliament who are not intimately conversant with the common law; and that he never knew, in his long experience, more than one or two disputes on the principles of that excellent system (*r*). A statesman one day intimated that he meant to consult him on a point of law: "If it be common law," said Coke, "I should be ashamed if I could not give you a ready answer; but if it be statute law, I should be equally ashamed if I answered you immediately (*s*)."

He was a man of independent principles and feeling; and while some of his cotemporaries were insinuating themselves into the favour of royalty by every stratagem which their flatteries could promote, Coke rose triumphantly

(*r*) See Preface to Coke's Reports, vol. ii.

(*s*) This occurred on Archbishop Abbot's accident; and Coke was playing at bowls at the time.—Myles Davies's Athen. Britannicæ, Lawyers Post, No. 5.

to his high stations without an artifice; *nec prece, nec pretio*, as he would often express himself with self-applauding satisfaction (*s*).

He was kind and forbearing; a good father, as the steady deportment of his first offspring through life well testifies; an affectionate husband, as the long season of comfort which he enjoyed with his first wife, a moderate and sensible woman, tells equally. If he had a fault in his private circle, it might be, that he bore the rule there with too stern an authority (*t*); yet his youngest son, Clement, was willing to encounter imprisonment for the principles he had espoused from his father; and we have seen with what cheerfulness the regulations of Sir Edward were complied with by his children. To use his own words, he was wont to give God solemn thanks that he never gave his body to physic, nor his heart to cruelty, nor his hand to corruption (*u*).

To vindicate his character from a want of charitable inclination, we need only consult Lloyd and Dr. Fuller, who declare that " he

(*s*) Lloyd's State Worthies, vol. ii. p. 112.

(*t*) It is recorded of him, that he would occasionally correct his daughters with a stroke of his fan. Fans were used in those days by persons of rank.

(*u*) Lloyd, p. 112.

relieved the poor with his constant alms (*x*).” He did more, he sustained the free-school at Thetford, which owed its existence to his liberality; and he founded one at his own cost at Godwick, his birth-place (*y*). The establishment of Sutton’s Hospital, in the Charter House, was disputed by the heir of the donor, and opposed by Bacon, then in high favour at Court, but we are told that Coke’s sanguine exertions disappointed the rapacity of the courtiers (*z*); and he tells us in his own report, how convinced the Court were that the benefaction was legal; and, moreover, that two Judges, who had differed from their brethren, changed their opinions and adopted the general judgment (*a*). And yet the trustees of this charity were compelled to sacrifice something for the propitiation of higher powers (*b*). Sir Edward was among the first governors of that excellent institution (*c*).

(*x*) Fuller’s Worthies, Norfolk, p. 251. Lloyd, p. 114.

(*y*) Ibid.

(*z*) Lloyd, p. 114. Fuller, p. 251. Birch’s Lives, vol. i. p. 66.

(*a*) Coke’s Reports, part x. p. 24. Hist. of the Charter House, p. 201.

(*b*) Hist. of the Charter House, p. 201.

(*c*) Collins’s Peerage, ed. 1741, vol. iv. p. 351. Historical Account of Mr. Sutton’s Will, p. 5.

Above all, let it be remembered that the subject of this Memoir was a religious man: he held the excellent practice of praying with his family (*d*), and bestowed four hours upon his devotions (*e*); he was a firm member of the church established by law, and foremost to protect her privileges from invasion, or her forms from innovation. So that Whitgift sent a most welcome present to his old pupil when he gave him a New Testament, with his advice to study the law of God (*f*). If he was against duelling, he felt, doubtless, that such a practice was in direct opposition to the grave principles which had been instilled into his childhood, which taught him that "the Everlasting had fixed his canon 'gainst self-slaughter." The appeal to the laws of honour he ever condemned, and on one occasion he received the approbation of the Court of Star Chamber for an able exposition of the law on this subject, which they

(*d*) Lloyd, 114. Fuller, 251.

(*e*) Sex horas somno, totidem des legibus æquis,
Quatuor orabis, des epulisque duas;
Quod superest ultrò sacris largire camœnis.

Co. Litt. 64.

Thus altered by Doddridge:—

Six hours to law, to soothing slumber seven,

Ten to the world allow, and all to Heav'n.

(*f*) Fuller, 251.

enjoined him to report in print (*g*). He must indeed have felt severely when he became acquainted with a quarrel between his son, Clement, and another person, in which recourse was had to arms, and, as it seems, the latter fell (*h*).

But it must be confessed, that Sir Edward had no taste for elegant literature, and, if we may be allowed to conjecture, neither poetry nor music had charms for him. When Lord Verulam printed his *Novum Organum*, he presented a copy of his work, with the title *Instauratio Magna*, to Coke, who wrote at the top of the title page—

“ Edw. C. ex dono auctoris.

Auctori consilium.

Instaurare paras veterum documenta sophorum,

Instaura leges, justitiamque prius.”

And over the device of a ship passing between Hercules's Pillars, he wrote the following verse :

“ It deserveth not to be read in Schooles,
But to be freighted in the Ship of Fools.”

Alluding to a book called the “ Shyp of Follys of the World,” by Sebastian Brand. This book of Bacon's was in the library of Thomas Earl of Leicester (*i*).

(*g*) Bacon's Works, Lond. 1819, vol. iv. p. 419.

(*h*) Sir Dudley Carleton's Letters, p. 26.

(*i*) Bacon's Works, vol. vi. p. 252, in the note.

We cannot forbear to mention, before we examine the public character of this great Judge, an observation which he made on one Arthur Creswel changing his name to Joseph on his turning Jesuit, that it was the first time he had known the change of a Christian name (*k*).

The general character of Sir Edward Coke is much eulogized by writers of the age in which he lived : the respective panegyrics of a Judge who was firmly attached to royalty, and of a faithful friend to a popular faction, are here given for examples. Sir George Croke, in his obituary of lawyers for 1634, speaks of the learned biographer of Littleton as a man of great prudence and learning in the common laws of the realm, and of a pious and virtuous life (*l*). Whitelock, comparing the considerable person we have just mentioned with Mr. Attorney Noy, says, " Sir Edward Coke died this year also, who was of greater reputation with the people, but of less at Court, whose illegal actions he earnestly opposed in Parliament, being usually chosen a member of the

(*k*) Wood's Ath. Ox. vol. ii. p. 147.

(*l*) Sir George Croke's Reports, vol. iv. p. 375. and see Stephens's Introduction to Bacon's Letters, p. ix. Echard's Hist. of England, vol. i. p. 45.

House of Commons after he was put out of his public offices. He was a man of great learning and industry, and had the value of a just and impartial magistrate (*m*).”

As a lawyer, Coke had no rival in his day ; his intimate acquaintance both with common and statute law was acknowledged most amply by all who witnessed his public career. The learned Camden could not refrain from celebrating his attainments when describing the county of Norfolk. He eulogized Godwick as the birth-place of a man who was endowed with rare natural talents, the most practised and perspicuous lawyer of England (*n*). And his promotion was mainly owing to the mastery which he acquired over the intricacies of his profession ; whence Lord Burleigh, who never loved superficial men, particularly noticed him, and aided his advancement. He was faithful and attentive to the interests of his clients, never scrupling his time or sparing his labour to ensure the cause which he undertook.

His integrity and competency as an officer of the crown were unimpeachable ; he repudiated the single offence imputed to him in his

(*m*) Whitelock's Memorials, p. 22.

(*n*) Camd. Brit. Icenii, Lond. fol. 1607, p. 351.

high offices with the most convincing reason, and stood afterwards acquitted of it by the sanction of a court of justice (o). He was zealous for the service confided to his care, yet his conduct on many occasions towards accused persons must ever be a subject for reprobation; and he created disgust too frequently by a haughty demeanor to his equals. Thus, Bacon complained bitterly of his carriage, and said he could not have been more elate in his speeches had he been born Attorney-General (p). There is, indeed, but too much reason to believe that he often suffered himself to be misguided by passion in public transactions, as in the cases of Essex and Raleigh, and in his persecution of the learned Dr. Cowel, who gave great offence to the common lawyers on the publication of his Dictionary in 1607, by asserting that the King was not bound by the laws. Having failed in the attempt to inculcate him with the King, the angry parties had recourse to the House of Commons, accusing him there as a betrayer of the people's rights; on which he was committed to custody, and his book publicly burnt (q).

(o) *Ante.*

(p) Bacon's Works, Lond. 1819, vol. vi. p. 47.

(q) Wilson's Memorabilia Cantabrigiana, p. 60.

It is said by some writers that when Lord Coke spoke of this learned person, he would call him Dr. Cowheel; this certainly is not in unison with the Judge's usual gravity; but, if it be true that he uttered such an expression, it was indeed a low jest (*r*). Nevertheless, he stood sternly to his post, and though he might have relaxed the dictatorial method of his address, the authority of the crown was never questioned in his time, nor its dignity brought into disrepute. "I have known," said Lord Bacon, "an Attorney Coke, and an Attorney Hobart, both worthy men, and far above myself; but, if I should not find a middle way between their two dispositions and carriages, I should not satisfy myself (*s*)." This speaks much for the tenacity of Coke, and the pliancy of Hobart (*t*).

Such, indeed, was the conduct of his professional career, that he became, as it is said of great men in the elegant arts, the founder of a school, in point especially of his political integrity, so that Bacon was afraid when the

(*r*) The General Dictionary, vol. x. p. 558.

(*s*) Bacon's Works, vol. v. p. 323.

(*t*) Bacon and Coke were perpetually at war with each other; in a letter to Lord Essex, the former called his adversary the Huddler at one time of his public life, but the reason is not apparent. Bacon's Work's, vol. vi. p. 8.

Recordership of London became vacant in 1616; for said he, "If your Majesty can continue the place within your own servants, it is best; if not, the man upon whom the choice is likely to fall, which is Coventry, I hold doubtful for your service; not but that he is a well learned, and an honest man; but he hath been, as it were, bred by Lord Coke, and seasoned in his ways (*u*)."

The conduct of this able Judge, while on the Bench, has been so amply related in former pages, that it need not be attempted here, by arguments or deductions, to persuade the reader of those clear reasonings which adorned his judgments, or of the veneration which his talents and experience commanded.

Generally, as a public man, he has doubtless been, on the one side, too much extolled for his universal powers; on the other, too much depreciated as a mere oracle of law. He was not, perhaps, the ready statesman, who could lead the affections of those he lived with, reconcile the jarring interests of party, and bend each particular foible to his purposes; he had conversed too much with books, too little with men—the best books (*x*), to gain an ascendancy

(*u*) Bacon's Works, Lond. 1819, vol. vi. p. 131.

(*x*) Bacon's Works, vol. v. p. 405.

so aspiring ; but it is not fairly to be inferred from thence that he was a mere lawyer (*y*).

Such a man is incapable of moving beyond the immediate sphere of his profession ; too long accustomed to a train of perplexing differences, he fears to venture beyond the beaten track which research has revealed to him ; he is cautious of experiment however promising, and contents himself with the established forms which tradition has afforded him, and his own slender observation has approved (*z*). But can this character be applied to a man who set at nought the angry threatenings of high favourites when his duty prompted him to oppose their measures ? At a time when the will of courtiers was predominant, when men were known to

(*y*) Coke was moreover a very able politician in evading the severe vengeance of an offended court, which he contrived more than once to escape, so that king James said he fell always upon his feet. Lloyd's State Worthies, p. 115. D'Israeli, p. 127.

(*z*) Dr. Johnson assented to a proposition of this kind, when Sir Alexander Macdonald once said to him, was not Lord Coke a mere lawyer ? Johnson replied, " why, I am afraid he was, but he would have taken it very ill if you had told him so ; he would have prosecuted you for scandal."—Boswell's Life of Johnson, 8vo. Lond. 1793, vol. ii. p. 13. Because Johnson was without taste for many of the polite arts, it did not therefore result that he was merely a great moralist, since he gave us abundant proofs of his imagination and skill in poetry.

rise solely through their servility and dependence, was his an ordinary spirit which dared to think and act as an honest man on the broad scale of things would hold himself obliged? He promoted the interests of education and of religion; he furthered the service of the state by his advice, when ministers of uncommon merit were at the helm, and thought it no condescension to seek it: he was ever alive to the political relations of his country, and gloried in its escape from Spanish thralldom; by his exertions the frauds on the King's treasury were laid open; by his courage the liberty of his fellow citizens became more stable; by his manly interference he gained the Petition of Right, and identified himself with the constitution of England.

The habits of observing all remarkable events with acuteness, and of transcribing with fidelity the results of that attention, cares which have employed the early years of many great men in every age, are handed down to us as the chief sources of their extended information. It is clear that the mere act of copying or imitation is not here alluded to, but the practice of habituating the mind to regard admirable objects, and noting down as correctly as may be the impressions which have been made.

It had been the custom of Sir Edward Coke from his youngest days of pleading to improve his intellect in the profitable manner we have mentioned : he committed every useful remark to writing ; he allowed his contemporaries to read freely his annotations ; he prepared them for the press with much caution ; and when at length they were given up to public criticism, a sense of decorum and modesty, excellent in so considerable a lawyer, was abundantly manifested. It is worthy of especial notice, that the labours of this great man were not influenced by that expectation of pecuniary reward which has so fully gratified the authors of later times ; his paternal fortune was ample ; and he had amassed wealth by his own exertions before the one half of his Reports had been produced : indeed the profits of a literary career, if profits there were, must have been scanty in those times of ignorance, so that the love of gain could scarcely have weighed with him. Ambition, it is true, must be allowed some share in the persevering tasks which he accomplished, yet we cannot refrain from recording that ambition as laudable, or from concluding that he possessed an honest and uncommon zeal for the general welfare. His talents as a writer have been extolled so highly by the most learned men

of the day in which he wrote, and have since acquired a reputation so established, that the tribute of modern panegyric would be poor and unable. In the words of Dr. Fuller, "his learned and laborious works on the laws will be admired by judicious posterity, while Fame has a trumpet left her, and any breath to blow therein (a)." The testimony of Camden, Spelman and Lord Bacon, cannot be omitted: "He (Sir Edward) has given no less proof of his abilities in his Commentaries upon our laws, whereby he has highly obliged both his own age and posterity (b)." "He was," said Spelman, "the founder of our legal storehouse, and, which his rivals must confess, though their spleen should burst by reason of it, the head of our jurisprudence (c)."

Next, his old adversary. "To give every man his due, had it not been for Sir Edward Coke's Reports, which, though they have many errors, and some peremptory and extrajudicial resolutions more than are warranted, yet they contain infinite good decisions and rulings over of cases, the law by this time had been almost like a ship without ballast, for that the

(a) Fuller's Worthies, Norfolk, p. 251.

(b) Camd. Brit. Icenæ, ed. 1607, p. 351.

(c) Rel. Spelm. p. 159.

cases of modern experience are fled from those that are adjudged and ruled in former time (*d*).” The learned Judge himself confirms this opinion by showing, on the publication of his third Report, that there were at that time no more than fifteen volumes of reports extant. According to his enumeration they were the nine Year Books, the Commentaries of Plowden, the Reports of Lord Chief Justice Dyer, and his own (*e*).

Coke’s statement of cases in the Courts at Westminster, called, by way of excellence, The Reports, were probably the first serious productions of his pen, and his great caution and wisdom will be observed in suffering the early cases to remain unpublished for twenty years after they had been written. At length, in 1600 (*f*), he brought out three parts, being then Attorney-General, and these were all his publications in the reign of Queen Elizabeth. His fourth and fifth books appeared in the first year of King James ; but it is necessary that we should notice the fifth particularly, because it

(*d*) Bacon’s Works, Lond. 1819, vol. v. p. 473, in the notes. See also Wilson’s Life and Reign of King James, p. 97. Myles Davies’s dedication to Lord Chief Justice Parker, in French, in his Athen. Brit. vol. iv.

(*e*) Pref. to Coke’s Reports, part. iii.

(*f*) See his Preface.

drew forth considerable observation at the time. Among the cases reported in that book was one in which Robert Caudrey, a clergyman, was plaintiff, who complained that a person under the authority of the Bishop of London had trespassed upon his premises. The Jury found the fact to have been, that Caudrey had been deprived of his benefice for preaching against the Book of Common Prayer; and, after argument, the Judges of the common law held, that the Bishop's judgment, given with the assent of his colleagues, ought to be allowed by themselves, as temporal magistrates.

Parsons, the noted Jesuit, was highly displeased with this determination, and with the lawyer who had published it; he therefore wrote a book, entitled, "An Answer to the fifth Part of Reports lately set forth by Sir Edward Coke, Knt., the King's Attorney-General, concerning the ancient and municipal Laws of England which do appertain to spiritual power and jurisdiction. By occasion whereof, and of the principal question set down in the sequent page, there is laid forth an evident, plain and perspicuous demonstration of catholic religion in England, from our first Kings christened unto these days." After an epistle dedicatory to the Attorney-General, in which care is taken

to blazon his most prominent faults, especially his intemperate conduct towards prisoners (*g*), the author states the subject of this controversy, and strives to excite Sir Edward's spleen by threatening him with the ridicule of posterity (*h*). This sally however, as well as the expostulation which we find in behalf of the Popish recusants (*i*), were merely excuses for the introduction of Jesuitical opinions.

Parsons thought this a fitting opportunity for the publication of his tenets; and, while he pities the deprived priest, he does not fail to argue in the most resolute strain against the Queen's usurpation of ecclesiastical supremacy, saying that, by reason of her sex, she ought to have been excluded from such spiritual jurisdiction (*k*). The motto on the title page of this book is, "*Reddite quæ Cæsari, &c.*" Perhaps it had been well if the Catholic divine, instead of rebuking the secular power for not entertaining this unfounded action, had considered how indispensable it was that a Bishop should superintend the affairs of his diocese; at all events, that he should restrain persons from

(*g*) Epistle Ded. s. 11.

(*h*) Parsons's Answer, p. 56.

(*i*) Id. p. 368.

(*k*) Id. p. 74.

declaiming against those sacred books of which he was the temporary guardian and defender ; and how unreasonable the interference of a court of common law would have operated in opposition to an assembly met wholly for the despatch of matters relating to the church. Sir Edward contented himself by observing in his preface to the Sixth Report, which appeared soon afterwards, that the better qualities of a divine were a peaceful demeanor, and abstinence from unnecessary strifes ; that he would not offer any answer to the Jesuit's effusions, since the matters which he had advanced were law and facts which had not been in anywise contradicted in the answer (*l*).

Nevertheless, Bishop Nicholson has thought it proper to mention this book of Parsons with some mark of respect. In his review of Coke's Reports, he notices the fifth as containing cases relating to ecclesiastical power and jurisdiction ; and adds, that the false grounds whereon many of the judgments were there given, (in Caudrey's case especially,) had been shown by Parsons in his answer to that part (*m*). In this he is reproached by Myles Davies, who seems satisfied with the reflection, that the unanimous judgment

(*l*) Coke's Reports, part vi. Pref.

(*m*) English Historical Library, p. 238.

of all Protestants in the world were with Mr. Attorney, except a few who aspired to Parsons's spiritual independence (*n*). It is not unworthy of remark, that these Reports were originally printed at Saint Omers, the hot-bed of the Jesuits, where the decision in Caudrey's business must have given great umbrage. There was also an answer to the first part of the Reports, but it seems to have deserved little notice, and is now forgotten (*o*).

Five parts of these cases followed between the years 1606 and 1616, when the Judge held successively the Chief Justiceship of the Common Pleas and King's Bench; and these, with the six books already mentioned, formed the collection of Reports which he published in his life-time. There have been surmises as to the genuine character of the twelfth and thirteenth books, which appeared after his death; but, in the absence of any evidence to disprove their authenticity, we must presume such doubts to be without foundation. Mr. Balstrode, the Chief Justice of North Wales, has appended his certificate to the twelfth, by which he intimated his belief that the work was by Sir Edward Coke; and in the preface to the thirteenth,

(*n*) Davies's Athenæ Brit. vol. i. pp. 317. 321.

(*o*) Id. vol. iii. Lawyer's Post, No. 4.

which is signed with the initial letters J. G., a similar assertion is made.

It is hardly necessary to premise that this excellent collection has undergone the ordeal of several editions, the examination of which may be left to the legal bibliomaniac (*p*). The eleven former parts were originally printed in French, and bore a very high price in that language; the English translation being for a considerable time one fourth inferior in value to the foreign impression (*q*). The two last were given in English. At length there was an entire print in English, with the pleadings in Latin, and the latter was soon disused, so that the field lay open for Mr. Sergeant Wilson to publish his edition, in which he has introduced a plentiful margin of references, with other useful matters (*r*). Several epitomes or abridgments of these Reports are still extant; they demonstrate the high respect in which the great lawyer's talent was held, and the unwearied industry with which the study of his work was prose-

(*p*) See the Catalogue of the British Museum, under the head of Coke, Sir Edward.

(*q*) Davies's Athen. Brit. Lawyer's Post, No. 4.

(*r*) Mr. Fraser, an able advocate on the Western circuit, is at present employed in editing another edition of those Reports, which has been long much in request. The edition of 1697, by Chilton, has MS. notes by Mr. Hargrave.

cuted. Among the authors who thus employed themselves, we find the names of Sir John Davies, the attorney-general of Ireland (*s*), Sir Thomas Ireland, &c. (*t*). There is, moreover, a versification of these volumes, printed in 1742, which gives the name of each case, and its principal point in two lines: as,

“ Caudrey 'gainst common prayer, if parson say
In sermon aught, bishop deprive him may (*u*).”

Coke is thought to have been rather favourable to this method of abstracting information. The principal objections to Sir Edward Coke's Reports seem either to have been political, flowing from his supposed efforts to cramp the regal prerogative; or legal; and these latter

(*s*) M. Davies, No. 4. Wood's Athen. Oxon, by Bliss. vol. ii. p. 402.

(*t*) M. Davies, No. 4.

1. Abridgment of the 12th and 13th Reports, by Thomas Manley.

2. Fasciculus Florum, by Thomas Ash.

3. The necessary Use and Fruit of the Pleadings contained in the first book of the Reports of Sir Ed. Coke, by Richard Cary.

4. Epitome undecim Librorum, 8vo. 1640.

5. Ash's General Table to the Reports. See Myles Davies's Ath. Brit. *ut supra*.

(*u*) Coke's Reports in Verse, Savoy, 1742, part v. case 1; and see Bridgman's Legal Bibliography, p. 65.

A new edition of these verses has been very recently published by Messrs. Clarke, of Portugal-street.

are founded on a habit he frequently adopted, of interposing his own resolutions instead of those which had been agreed on by the Court at large. With regard to the former, they related chiefly to the tenacity with which he affirmed that the common law should, on occasion, over-ride Acts of Parliament, to the assumption of an unwonted jurisdiction by the Court of King's Bench, and to ecclesiastical imprisonments. But the tangible exception was to his report of the illegality of a taxation by Commissioners of Sewers, under particular circumstances there mentioned; and this he answered fully, well knowing the others to have been springes set by enemies for his destruction(x). He, notwithstanding, gave distinct replies to the other propositions; but his firmness and reluctance to satisfy the Court are sufficiently evident in the answers.

Occasional objections to the correctness of these writings are, however, urged with great force, and under circumstances the most convincing. Thus, we have a complaint of Chief

(x) See MSS. in the British Museum, Sloanian Collection, 4107, p. 177. containing a letter of Lord Ellesmere to King James. The questions demanded of L. C. J. Coke, concerning his Reports, with his Answer. Bacon's Works, vol. vi. pp. 397—410, Lond. 1819.

Justice Hobart, who animadverted very strongly on Lord Coke's resolutions in a case to which he then referred, characterizing them as sudden and interposed (*y*); and such is the decided opinion at this day, founded on a careful comparison of the contemporary reports, in which the decisions attributed to the Judges are often very different from those in Coke. It may suffice, in conclusion, to mention the respectable authority of Mr. Sugden, whose diligence in the examination of critical points will never be suspected: he has noticed an instance in which the author of the Reports has invented some expressions for the Lord Chief Justice Anderson, which, on reference to the cases of that learned Judge, do not appear to have fallen from him (*z*).

The celebrated Commentary upon Littleton, forming the first book of Sir Edward Coke's Institutes, comes next under our consideration. It was first published in 1628, but that edition is said to have been very incorrect, upon which a second was given in the next year, revised by the author, which was much more esteemed (*a*); after which a series of impressions

(*y*) Sir Henry Hobart's Reports, p. 300.

(*z*) Sugden on Powers, ed. of 1821, p. 25, in the note.

(*a*) Clarke's Bibliotheca Legum, 217. Bridgman's Legal Bibliography, p. 68.

followed, until at length it has reached the eighteenth. Several copies of this work are to be found in the British Museum, enriched with the manuscript notes of the Lord Chief Justice Hale, the Earl of Nottingham, Mr. Justice Martin Wright, Mr. Beversham Filmer, Mr. Sergeant Hill and Mr. Hargrave; and to the thirteenth edition (Mr. Hargrave's), an Analysis of Littleton, by an unknown hand, is prefixed (*b*).

In 1774, Mr. Hargrave commenced his ever memorable labours for the illustration of this book, which had become scarce and expensive he was favoured in the prosecution of his design by the communication of Lord Hale's notes, an ancient copy of Littleton, and an ancient manuscript from the library at Cambridge, but after ten years toil his feeble health compelled him to desist from the enterprise, on which Mr. Butler, a name always to be mentioned with honour and respect, volunteered to proceed with the annotations, which he enriched with the remarks of Lord Chancellor Nottingham, and in 1788 this arduous employment was terminated highly to the satisfaction of the public (*c*).

(*b*) See Catalogue of the British Museum, under Coke, Sir Edward.

(*c*) Clarke's Bibliotheca Legum, 217. Bridgman, pp. 69-71.

There is also a methodical arrangement of this work by Mr. Thomas.

As may be expected, there have been several abridgments of the Commentary, which are neglected; one however was executed by Sir Humphry Davenport, some time Chief Baron of the Exchequer (*d*), and another by Mr. Sergeant Hawkins, the learned writer on criminal pleadings (*e*).

The second, third and fourth parts of the Institutes were published after their author's death, under an order of the House of Commons (*f*). The first of these contain an exposition of Magna Charta, the Statute of Merton, and many other important Acts; the second treats of the Criminal Law; the third handles the jurisdiction of the English Courts. Copies of these, with the notes of Mr. Sergeant Hill and Mr. Hargrave, in manuscript, are to be found in the British Museum.

It will be confessed, without argument, that in a work replete with explanations of the most abstruse points, teeming with records of very remote antiquity, and embracing a variety of

(*d*) Myles Davies's Athen. Brit. Lawyer's Post, No. 4.

(*e*) See for other Abridgments and Tables, Davies, in p. 212.

(*f*) Clarke's Bibliotheca Legum, 219. Bridgman, 73.

matter almost infinite, the most learned writer and enlarged genius may slide into occasional errors; he may misquote, he may identify the passages of others with those of his own invention, he may be unduly attached to particular opinions, nay, he may, by possibility, err in his explication of the law itself; nevertheless, when we find that the manuscripts of an author have been forcibly detained from him, subject to loss or interpolation; when we observe publications, acknowledged indeed to be his own, yet made public after his decease, and so deprived of the revisions which would most probably have been bestowed upon them;—when again, posthumous writings attributed to him, and perhaps hazarded under the shelter of his great name, are brought before our notice; although we may be urged to condemn some thoughts as erroneous, we must be careful how we arraign the legal principles of the man whose labours we are criticizing, or even dispute his information on particular facts, especially if the errors are discovered in a book which was not given to us under his particular care and sanction.

To illustrate this,—the Commentary on Littleton has endured the scrutinizing test of many generations, and still stands a bulwark of the law; it was carefully compiled and corrected by

Sir Edward, and while from time to time mistakes are rectified by the judgment of our Courts, great is the lawyer's admiration of its terseness, its general accuracy, and its profound information. Roger North, when writing the *Memoir of the Lord Keeper*, denounces the work as a study for young men, holding it to be an unprofitable common-place, and more obscure than the bare text without it (*g*). There are existing at this day opinions to the same effect; but it may be safely asserted, that there is not any man of ordinary application, who has willingly lent his attention to Lord Coke's *Commentary*, and will not bear testimony to the improvement which it has effected upon his intellect. In confirmation of this eulogy, the delight of many eminent Judges, who pondered deeply upon the work, may be mentioned; of Lord Hale, of Chancellor Finch; who ruminated, beyond doubt, painfully, but with patience, on its depths and difficulties. The measure of time, indeed, necessary for the due understanding of this author's productions, has been fixed at two years, with the aid of sedulous application (*h*). Seriously should they consider who discountenance this reading on Little-

(*g*) North's *Lives*, vol. i. p. 21, (8vo. edit.)

(*h*) Myles Davies. *Lawyer's Post*, No. 4.

ton's Tenures, that there is not, perhaps, one book on the common law of their country, in which there are so few faults, and on which, however severe the toil, so much time may be employed towards the acquisition of certainties. The grand shaft of criticism has been aimed against its arrangement; and this probably may be open to objection: an attempt to remedy this has however been made by a late editor (*i*), as we have already mentioned. It may be hardly necessary that we should allude here to Bishop Nicholson's cursory notice of this work; he, (who by the way is not held to be a very competent critic), has discovered that a variety of mistakes are to be found there (*k*), and this stricture will be allowed, without prejudice to so vast an undertaking, as well by its admirers as its censurers.

Hobbes, who professed to acknowledge no law except that of reason, would naturally revolt at Lord Coke's principle—" *Summa ratio est summa lex* ; and therefore employed a long dialogue in arraigning various portions laid down in the Institutes; and on many occasions pretends to invalidate the legal doctrines:

(*i*) J. H. Thomas, esq.

(*k*) Nicholson's Eng. Historical Library, Lond. 1776, p. 189.

of those books. But, as he allows, his own distinctions are nice and subtle (*l*); so that the reader will perceive, when this author speaks of Injustice and Iniquity, referring the one to transgressions against the statute law, the other to offences against the law of reason (*m*), how difficult it is to hold argument with a man who interprets words too strictly, and in opposition to their general acceptation; and, at the same time, how easy to assail mere verbal errors.

The rule of law which negatives the commission of felony, if the property taken be in any way attached to the freehold, is severely handled in another place; here, however, the philosopher would even venture to dispute Lord Coke's opinion, whereas, without discussing the reasonableness of the doctrine, it is most clear that such is the established rule at this day, beyond all controversy (*n*).

It may not be irrelevant to contrast these censures with the applause of Mr. Barrington, who, after proving that Lord Coke was incorrect in an observation which he had made concerning

(*l*) A Dialogue between a Philosopher and a Student of the Common Law of England; bound up with his Art of Rhetoric, Lond. 1681, p. 31.

(*m*) Ibid.

(*n*) Ibid.

protections, adds, ' It may perhaps be thought that I have dwelt too long upon this mistake of Sir Edward Coke, but the errors of so great a man require most particular notice, as they otherwise pass as law under the sanction of such an authority (o).'

The excellency of the second Institute has never been questioned. Coke could not have so well appreciated the common law, had he not been eminently skilled in the knowledge of legislative acts; those even, who would detract from his merits, are content to allow him this praise, and to testify that he was great in the exposition of statute law (p).

The third and fourth Institutes deserve particular mention, since they have been visited by the most severe criticism, and the charges which are alleged against them have long borne the stamp of reason and justice.

One topic must be urged in defence of their author: these were his "orphan labors," as Bishop Nicholson emphatically expresses himself. "His great age, when he came to lick

(o) Barrington on the Statutes, p. 201. See also, in praise of this work, Leigh's *Felix Consortium*, Lond. 1663, lib. III. c. 13, p. 170.

(p) See the learned Preface to Gilbert's *History of the Common Pleas*, p. 4, in the note.

these papers over the press, would not admit of nicety and exactness, and he died before they were published (*q*).” His discourse of Treason in the third, and the treatise on Parliaments in the fourth part, were condemned for their great errors by Hyde and Bridgman, Chief Justices, Mr. Justice Kelyng, Sir Geoffry Palmer, the Attorney-General, and Sir Heneage Finch, (afterwards Lord Nottingham), the Solicitor General in the fifteenth year of Charles II. They arraigned the correctness of his principles in these matters (*r*); yet as Coke never distinguished himself as an acute criminal lawyer, the mistakes imputed to him may be referred to the usual want of order in a common-place book. The famous William Prynne was the most formidable antagonist who assailed the fourth Institute: in 1669 he produced a quarto volume, entitled “Brief Animadversions on Amendments of, and additional Records to the fourth part of the Institutes.” His book is chiefly composed of ancient records collated from the office in the Tower, and, had it been written by a less acrimonious hand, might have proved a judicious supplement to Sir Edward’s

(*q*) Eng. Hist. Library, p. 161, ed. 1776.

(*r*) Sir John Kelyng’s Reports, p. 21.

work. But although the author has maintained to a certain extent his proposition of exposing and amending errors, he has manifested too great an anxiety to quarrel with trifles, and to magnify every trivial fault. It had been better, for instance, if instead of noting down every clerical mistake, or error of the press in the body of his work, he had enumerated the whole of such in an index prefixed to it, he would thereby have enhanced the value of his own criticisms, without depreciating the volume on which he was commenting. He is sometimes too particular: Coke says, "The King doth out of the Court of Chancery send forth writs of summons of least forty days before the Parliament beginneth." Prynne observes on this, although it be generally true, yet it is not always observed in special cases, in times of danger or invasion. This is not properly animadversion or amendment, yet it is introduced clearly by way of correction (*s*). Again, by Lord Coke, "Sickness is a good cause to remove a Speaker, but it is no cause to remove a Knight, &c. of the House of Commons." "If it be palsy, lethargy, &c. totally disabling them from attendance in Parliament, it is a good

(*s*) P. 10.

cause of removal, especially if the members, and those for whom he serves, desire it(*t*)."

Lord Coke speaks generally, Prynne descends to particulars, but the reader will see that they should have been appended as supplements, not critical censures.

He is not always correct : speaking of forests, he charges Sir Edward with piracy. " Mr. John Manwood in his treatise of the forest laws, (out of which the author hath borrowed most of his materials, though he names him not (*u*). " Now this is not exactly the case, for towards the close of his chapter on the courts of the forests, Manwood is particularly pointed out as the writer who published the *Carta de Foresta* (*x*).

Nevertheless, there are many instances in which the emendations are not without justice, and it is beyond dispute that a valuable collection of records has been supplied (*y*). Prynne has attacked Coke's doctrines on other occasions, and in other publications (*z*).

(*t*) P. 11.

(*u*) P. 218.

(*x*) Coke's Institutes, part iv. p. 320, Lond. 1644.

(*y*) Pp. 12. 31, &c.

(*z*) Records, vol. iii. p. 336, *et seq.* cited with approbation in Barrington's Statutes, p. 195.

The reader has now been made acquainted with the principal works of this great Judge; there are, however, a few others worthy of consideration, and it may be said, with some degree of confidence, that, on account of the havoc committed among his papers, the world has not been indulged with the whole of his writings.

In 1614 he put forth a book of Entries, which is very well regarded; it was intended as a supplement to his Reports; and, in common with many of his books, was published in law French.

In 1637, his treatise of Bail and Mainprize, confined to criminal matters, was printed, and sold for the small price of one shilling (a).

In 1640, 'The Complete Copyholder,' a treatise of great merit, which has passed several editions, and is still regarded with particular respect (b); and

Lastly, in 1662, the reading on Fines was made public, which is also esteemed, and quoted in one of the latest treatises on that subject by Mr. Cruise.

(a) Myles Davies's Athen. Brit. Lawyer's Post, No. 4.

(b) See Bingham's Reports in the Common Pleas, vol. ii. p. 295.

Mr. Serjeant Hawkins published these three essays as a selection of Law Tracts, in 1764.

A speech and charge at Norwich assizes, in 1606, was attributed to Coke, then Chief Justice; but he has disclaimed this, denouncing it as a garbled and incorrect statement, more calculated to expose him to obloquy and ridicule, than to present a true report of the observations which he made on that occasion (c). It is to be feared that Mr. Barrington has quoted this forged address in his "Observations." However, his extract is curious: "The clerk of the market will come down, and call before him all weights and measures; if there is a fault, he and the informer share the penalty, but never redress the abuse. It was once my hap to take a clerk of the market in these tricks; but I advanced him higher than his father's son by so much as from the ground to the top of the pillory. If you of this jury, therefore, will present these offences, by God's grace they shall not go unpunished; for we have a coif, which signifies a scull, whereby, in the execution of justice, we are defended against all opposition (d)." Yet there is good evidence

(c) See Coke's Reports, part vii. in the Preface.

(d) Barrington's Observations on the Statutes, p. 453.

for believing that the “ Discourse on the unlawfulness of pointed Combats,” was written by him. Lord Bacon informs us, that the Lords of the Star Chamber were so much gratified with his resolution upon this subject, as to request that he would make it known (*e*); and it is stated to have been written at the request of the Lord Henry Howard, Earl of Northampton. It is arrayed strictly in a legal form, and is entirely silent on the subject of that feeling which is said to spring from the laws of honour,—laws which, contrasted with the laws of God, have received too little consideration in any age. The reader will find this pamphlet among the Collectanea of Mr. Gutch (*f*).

Generally considered, the writings of Lord Coke contain, perhaps, a more abundant supply of legal matter than has ever yet been contracted within so small a compass; they are nevertheless ill digested, and not free from pedantry. But as the mind of so great a man was fully capable of penetrating to the very depths of that science which he professed, and thus of resolving matters into certainties—the very end

(*e*) Bacon's Works, Lond. 1819. vol. iv. p. 419.

(*f*) Gutch's Collectanea Curiosa, vol. i. p. 9.

and compass of the law,—it is no marvel that his works have been distinguished for their superior excellence, or that the objections to their method have yielded to the richness of their information.





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